

1 BYRON F. BROWNE, ESQ.
Nevada Bar No. 9769
2 JARED P. GREEN, ESQ.
Nevada Bar No. 10059
3 BROWNE GREEN, LLC
3755 Breakthrough Way, Suite 210
4 Las Vegas, NV 89135
Telephone/Facsimile: (702) 475-6454
5 *Byron@bgtriallawyers.com*
Jared@bgtriallawyers.com

6 MARKER E. LOVELL, JR., ESQ.
7 Anticipated to be Admitted *Pro Hac Vice*
CHELSEA D. YUAN, ESQ.
8 Anticipated to be Admitted *Pro Hac Vice*
GIBSON ROBB & LINDH LLP
9 201 Mission Street, Suite 2700
San Francisco, CA 94105
10 Telephone: (415) 348-6000
Facsimile: (415) 348-6001
11 *mlovell@gibsonrobb.com*
cyuan@gibsonrobb.com

12
13 Attorneys for Defendants
14 CALLVILLE BAY RESORT & MARINA and
FOREVER RESORTS, LLC

15
16 UNITED STATES DISTRICT COURT

17 DISTRICT OF NEVADA

18
19 SHAUN GOODRICH, an Individual,

20 Plaintiff,

21 v.

22 GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business as
23 MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
24 FOREVER RESORTS LLC, an Arizona
Limited Liability Company; DOES I-X,
25 unknown persons; and ROE Corporation I-X,

26 Defendants.

CASE NO.

**PETITION FOR REMOVAL TO THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

27 ///

28 ///

1 Defendants CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS, LLC
 2 (collectively “Marina Defendants”), by and through their counsel of record, submit this Petition
 3 for Removal to the United States District Court for the District of Nevada pursuant to 28 U.S.C.
 4 §§ 1331, 1332, 1333, 1441, and 1446.

5 **PLEASE TAKE NOTICE**, that the Marina Defendants hereby remove to this Court, the
 6 state court action entitled “*Shaun Goodrich v. GRG Enterprises, LLC, et al.*,” Case No. A-20-
 7 811430-C, filed in the Eighth Judicial District Court for the State of Nevada, in and for Clark
 8 County. The grounds for removal are:

9 1. Removal is appropriate pursuant to 28 U.S.C. § 1331 because this action involves a
 10 federal question. Plaintiff Shaun Goodrich (“Plaintiff”) has brought this tort action alleging a
 11 personal injury in Lake Mead. (*See generally* Plaintiff’s Amended Complaint at ¶¶ 28-47, 58-69;
 12 *see*, Request for Judicial Notice in Support of Petition for Removal filed herewith.) Specifically,
 13 Plaintiff has alleged that the injury was sustained when he was “returning with a party on a slip
 14 customer’s boat” and fell into the water of Lake Mead. (*See*, Plaintiff’s Amended Complaint at ¶¶
 15 32-34.) Plaintiff claims that he “suffered a head wound and aspirated a large amount of water.”
 16 (*See*, Plaintiff’s Amended Complaint at ¶36.) Lake Mead is located in a federal enclave. *See, e.g.*,
 17 *U.S. v. Seittles*, No. 2:04-cv-00408, 2006 WL 1367374, at *2 (D. Nev. May 12, 2006) (“The
 18 ACA’s purpose is to borrow state law to fill gaps in federal criminal law that applies on federal
 19 enclaves, such as the Lake Mead National Recreation Area.”); *see also* Lake Mead National Park
 20 Service Website, accessible at <https://www.nps.gov/lake/index.htm> (last accessed April 8, 2020).

21 A lawsuit is removable under federal question grounds for tort claims that arise on federal
 22 enclaves. *See Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1250-1251 (9th Cir. 2006)
 23 (noting that the defendant “had thirty days from when it received the complaint to remove to
 24 federal court as [f]ederal courts have federal question jurisdiction over tort claims that arise on
 25 ‘federal enclaves.’”); *see also Mehnert v. Agilent Techs., Inc.*, No. 18-593, 2018 WL 3208375, at
 26 *2-*4 (W.D. Pa. June 29, 2018) (noting that “Article I of the U.S. Constitution establishes
 27 exclusive federal jurisdiction over federal enclaves” and denying plaintiff’s motion to remand as
 28 the notice of removal was timely and established that the tortious action occurred on a federal

enclave). Furthermore, federal law establishes that “district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” *See* 28 U.S.C. § 1331.

This Court recently upheld removal on the basis of federal question jurisdiction in a personal injury case occurring at Lake Mead on the grounds that it is a federal enclave. *See*, U.S. District Court Order signed by the Hon. James Mahan on July 3, 2019, in *Dunlap v. Amato, et al.*, Case No. 2:19-CV-189, 2019 WL 2866837 (D. Nev. July 3, 2019) (denying Plaintiff’s motion for remand), attached hereto as **Exhibit A**.

Only “state-court actions that originally could have been filed in federal court may be removed to federal court by the defendant.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392, 107 S. Ct. 2425, 96 L.Ed.2d 318 (1987). While federal question jurisdiction “is governed by the ‘well-pleaded complaint rule,’” federal question jurisdiction also exists over tort claims that arise on federal enclaves. *Id.* (citing *Gully v. First Nat’l Bank*, 299 U.S. 109, 112–13, 57 S. Ct. 96, 81 L.Ed. 70 (1936)); *Durham*, 445 F.3d at 1250 (citing *Willis v. Craig*, 555 F.2d 724, 726 n.4 (9th Cir. 1977) (per curiam); *see also Mater v. Holley*, 200 F.2d 123, 125 (5th Cir. 1952)); 28 U.S.C. § 1331. Federal enclaves exist where property is “purchased by the Consent of the Legislature of the State . . . for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings[.]” U.S. Const. art. I, § 8, cl. 17.

The Ninth Circuit, as well as this district, has recognized Lake Mead as a federal enclave. *United States v. Reed*, 734 F. 3d 881, 885 (9th Cir. 2013) (“Lake Mead National Recreation Area is federally owned”); *United States v. Seitles*, No. 2:04-cv-00408-KJD-PAL, 2006 WL 1367374 at *2 (D. Nev. May 12, 2006) (“federal enclaves, such as [] Lake Mead”); *see generally Newton v. Parker Drilling Mgmt. Servs., Ltd.*, 881 F.3d 1078, 1094–95 (9th Cir. 2018) (reiterating that Lake Mead is a federal enclave (citing *Reed*, 734 F.3d at 884–93)). Thus, because the Dunlaps’ state tort claims arose on Lake Mead, the court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

Id. at *3.

2. Given the existence of original jurisdiction as a basis for subject matter jurisdiction, this Court has supplemental jurisdiction by right over any remaining claims pursuant to 28 U.S.C. § 1367. As set forth in 28 U.S.C. § 1367, the Court has supplemental jurisdiction “over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.” The statute also lists the specific instances when the district court “may decline to exercise supplemental jurisdiction,” but none of them apply in this case.

1 *See*, 28 U.S.C. § 1367(c). The Ninth Circuit Court of Appeals has interpreted the statutory
2 language “part of the same case or controversy” to mean that the claims share a common nucleus
3 of operative fact and that “the state and federal claims would normally be tried together.”
4 *Bahrampour v. Lampert*, 356 F. 3d 969, 978–79 (9th Cir. 2004). “In exercising its discretion to
5 decline supplemental jurisdiction, a district court must undertake a case-specific analysis to
6 determine whether declining supplemental jurisdiction comports with the underlying objective of
7 most sensibly accommodating the values of economy, convenience, fairness and comity.” *Id.*

8 Here, Plaintiff’s Amended Complaint includes claims against Defendant GRG
9 ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE
10 RIVER, alleging that Plaintiff suffered an injury prior to the alleged incident in Lake Mead which,
11 along with the alleged incident in Lake Mead, contributed to the total injuries and damages
12 suffered by Plaintiff, including but not limited to a cervical fusion surgery. (*See* Plaintiff’s
13 Amended Complaint at ¶¶ 11-27, 48-57.) Plaintiff’s Amended Complaint alleges standard
14 personal injury causes of action with sequential incidents culminating in the same set of damages
15 and raises no novel or complex issue of state law. The initial incident claim does not predominate
16 over the subsequent federal question claim, there has been no dismissal of the federal question
17 claim, and there are no “exceptional circumstances” to justify declining jurisdiction. Therefore,
18 supplemental jurisdiction in this Court is proper over all claims in Plaintiff’s Amended Complaint.

19 3. Venue is proper in this Court because it is the “district and division within which
20 [this] action is pending.” 28 U.S.C. § 1446(a); 28 U.S.C. § 1441(a).

21 4. The Marina Defendants were served with a copy of the Summons and Plaintiff’s
22 original Complaint on March 12, 2020. This Petition is therefore timely filed within thirty (30)
23 days of service as required by 28 U.S.C. § 1446(b). Plaintiff’s Amended Complaint was filed on
24 March 25, 2020, and is the current operative complaint.

25 5. There is unanimity amongst all Defendants in favor of removal to this Court.
26 Pursuant to 28 U.S.C. § 1446(b)(2)(A), Co-Defendant GRG ENTERPRISES, LLC, a Montana
27 Limited Liability Company doing business as MACKENZIE RIVER, consents to the cause of
28 action being removed to Federal Court.

6. Pursuant to 28 U.S.C. § 1446(a), Defendants provide this Court with copies of the following documents:

- a. Copies of all process, pleadings, and orders served upon it in this matter to date, pursuant to 28 U.S.C. § 1446(a), attached hereto as **Exhibit B**.
- b. Copies of all of the state court filings have been attached to this Notice as **Exhibit C**.
- c. Notice by the Marina Defendants of Removal of Action filed in the state court action, attached hereto as **Exhibit D**.

7. A copy of this Petition and Request for Judicial Notice are being filed concurrently with the clerk of the Eighth Judicial District Court and served on Plaintiff's counsel and counsel for Co-Defendant GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER.

8. By filing this Notice of Removal, the Marina Defendants do not waive, but to the contrary expressly preserve, any and all defenses which may be available to the Marina Defendants in this matter, including, without limitation, defenses based on lack of personal jurisdiction, improper service of process, improper venue, lack of subject matter jurisdiction, and the failure to state a valid claim. In addition, the Marina Defendants reserve the right to request a jury trial.

DATED this 10th day of April, 2020

BROWNE GREEN, LLC

/s/ Jared Green

BYRON F. BROWNE, ESQ.

Nevada Bar No. 9769

JARED P. GREEN, ESQ.

Nevada Bar No. 10059

BROWNE GREEN, LLC

3755 Breakthrough Way, Suite 210

Las Vegas, NV 89135

Telephone/Facsimile: (702) 475-6454

Byron@bgtriallawyers.com

Jared@bgtriallawyers.com

Attorneys for Defendants

**CALLVILLE BAY RESORT & MARINA and
FOREVER RESORTS LLC**

CERTIFICATE OF SERVICE

The undersigned, an employee of BROWNE GREEN, LLC, hereby certifies that service of the foregoing document was served on the 10th day of April 2020 via the Court's CM/ECF filing system addressed to all parties on the e-service list.

RYAN ALEXANDER
Nevada Bar No. 10845
RYAN ALEXANDER CHTD.
Email: ryan@ryanalexander.us
jennifer@ryanalexander.us

Attorneys for Plaintiff
SHAUN GOODRICH

JOSH COLE AICKLEN
Nevada Bar No. 007254
PAUL A. SHPIRT
Nevada Bar No. 10441
JENNIFER R. LANAHAN
Nevada Bar No. 14561
LEWIS BRISBOIS BISGAARD & SMITH LLP
Email: Josh.aicklen@lewisbrisbois.com
Paul.shpirt@lewisbrisbois.com
Jennifer.lanahan@lewisbrisbois.com

Attorneys for Defendant
GRG ENTERPRISES, LLC, d/b/a MACKENZIE RIVER

By/s/ Jared Green
_____, an Employee of
BROWNE GREEN, LLC

A

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOSEPH TODD DUNLAP, et al.,

Plaintiff(s),

v.

DOMINIC AMATO, et al.,

Defendant(s).

Case No. 2:19-CV-189 JCM (PAL)

ORDER

Presently before the court is plaintiffs Joseph Todd Dunlap and Mona Dunlap's (collectively "the Dunlaps") motion to remand. (ECF No. 9). Defendants Track Marine Group; Tracker Marine LLC; and Tracker Marine Retail, LLC (collectively "Tracker") filed a response (ECF No. 12), to which the Dunlaps replied (ECF No. 17).

Also before the court is Tracker's motion for leave to file surreply. (ECF No. 25).

I. Facts

This action arises from an alleged boating injury that took place at Lake Mead in Clark County, Nevada. (ECF No. 1-2 at 11).

In September 2016, Mr. Dunlap traveled from his home in Oregon to Nevada to participate in the three-day WON Bass Pro/Am fishing tournament ("Tournament") held on September 12–14, 2016, at Lake Mead. *Id.* Mr. Dunlap and defendant Dominic Amato ("Amato") competed together in the Tournament with a boat that Amato owned and operated. *Id.* Tracker and defendant White River Marine Group ("White River") designed, manufactured, and distributed the boat. *Id.* at 12.

On September 13, 2016, the winds at Lake Mead were approximately thirty-five to forty miles per hour ("mph"), with gusts up to fifty mph. *Id.* The high winds caused four to six-foot

1 waves. *Id.* At approximately 2:45 p.m., Mr. Dunlap and Amato prepared to return to the dock to
 2 weigh their fish. *Id.* at 13. Amato became worried that the two would not meet the Tournament
 3 deadline to weigh their fish, so he began driving the boat at a high rate of speed. *Id.* Mr. Dunlap
 4 allegedly asked and then demanded Amato to slow down, but Amato refused. *Id.*

5 Mr. Dunlap alleges that because of the weather conditions, the boat's high rate of speed,
 6 and the boat's allegedly flawed safety handles, he was thrown out of his seat, into the air, and
 7 back down onto his seat. *Id.* As a result, Mr. Dunlap suffered an anterior compression fracture
 8 located at L-2 vertebra of his spine. *Id.* at 15.

9 The Dunlaps filed a complaint in state court alleging negligence, gross negligence,
 10 negligence per se, strict products liability, intentional infliction of emotional distress, negligent
 11 infliction of emotional distress, and loss of consortium. *Id.* at 16–21. On February 1, 2019,
 12 Tracker removed the case to federal court based on both diversity jurisdiction and federal
 13 question jurisdiction. (ECF No. 1). Now, the Dunlaps move to remand and Tracker moves for
 14 leave to file surreply. (ECF Nos. 9, 25-1).

15 **II. Legal Standard**

16 *a. Motion for leave to file surreply*

17 Local Rule LR 7-2 provides that surreplies “are not permitted without leave of court[.]”
 18 LR 7-2(b). “[M]otions for leave to file a surreply are discouraged.” *Id.* Courts in this district
 19 have held that the “[f]iling of surreplies is highly disfavored, as it typically constitutes a party’s
 20 improper attempt to have the last word on an issue . . .” *Smith v. United States*, No. 2:13-cv-039-
 21 JAD-GWF, 2014 WL 1301357 at *5 (D. Nev. Mar. 28, 2014) (citing *Avery v. Barsky*, No. 3:12-
 22 cv-00652-MMD, 2013 WL 1663612 (D. Nev. Apr. 17, 2013)). Only the most exceptional or
 23 extraordinary circumstances warrant permitting a surreply to be filed. *See Sims v. Paramount*
 24 *Gold & Silver Corp.*, No. CV 10-356-PHX-MHM, 2010 WL 5364783 at *8 (D. Ariz. 2010)
 25 (collecting cases).

26 *b. Remand*

27 Federal courts are courts of limited jurisdiction. *Owen Equip. & Erection Co. v. Kroger*,
 28 437 U.S. 365, 374 (1978). “A federal court is presumed to lack jurisdiction in a particular case

1 unless the contrary affirmatively appears.” *Stock West, Inc. v. Confederated Tribes of Colville*
 2 *Reservation*, 873 F.2d 1221, 1225 (9th Cir. 1989).

3 Upon notice of removability, a defendant has thirty days to remove a case to federal court
 4 once he knows or should have known that the case was removable. *Durham v. Lockheed Martin*
 5 *Corp.*, 445 F.3d 1247, 1250 (9th Cir. 2006) (citing 28 U.S.C. § 1446(b)(2)). Defendants are not
 6 charged with notice of removability “until they’ve received a paper that gives them enough
 7 information to remove.” *Id.* at 1251.

8 Specifically, “the ‘thirty day time period [for removal] . . . starts to run from defendant’s
 9 receipt of the initial pleading only when that pleading affirmatively reveals on its face’ the facts
 10 necessary for federal court jurisdiction.” *Id.* at 1250 (quoting *Harris v. Bankers Life & Casualty*
 11 *Co.*, 425 F.3d 689, 690–91 (9th Cir. 2005) (alterations in original)). “Otherwise, the thirty-day
 12 clock doesn’t begin ticking until a defendant receives ‘a copy of an amended pleading, motion,
 13 order or other paper’ from which it can determine that the case is removable.” *Id.* (quoting 28
 14 U.S.C. § 1446(b)(3)).

15 A plaintiff may challenge removal by timely filing a motion to remand. 28 U.S.C. §
 16 1447(c). On a motion to remand, the removing defendant faces a strong presumption against
 17 removal, and bears the burden of establishing that removal is proper. *Sanchez v. Monumental*
 18 *Life Ins. Co.*, 102 F.3d 398, 403–04 (9th Cir. 1996); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566–67
 19 (9th Cir. 1992).

20 **III. Discussion**

21 *a. Motion to leave to file surreply*

22 Tracker asserts that the court should grant leave to file a surreply because the Dunlaps
 23 argue for the first time in their reply that there are “no substantial federal issues” in this case.
 24 (ECF Nos. 17 at 6, 25-1 at 3). Because “motions for leave to file a surreply are discouraged[,]”
 25 the court will deny Tracker’s motion. LR 7-2(b). The court will also disregard any arguments
 26 the Dunlaps raised for the first time in their reply. *See United States v. Wright*, 215 F.3d 1020,
 27 1030 n.3 (9th Cir. 2000) (declining to consider arguments a party raised for the first time in a
 28 reply). Therefore, the court denies Tracker’s motion to leave to file surreply.

1 *b. Motion to remand*

2 The Dunlaps move to remand, arguing that the court does not have subject matter
3 jurisdiction pursuant to either diversity jurisdiction or federal question jurisdiction. (ECF No. 9).
4 The court will address both arguments in turn.

5 *i. Diversity jurisdiction*

6 28 U.S.C. § 1332 allows federal courts to exercise diversity jurisdiction in civil actions
7 between citizens of different states where the amount in controversy exceeds \$75,000. *See* 28
8 U.S.C. § 1332(a). However, the forum defendant rule confines removal based on diversity
9 jurisdiction to “instances where no defendant is a citizen of the forum state.” 28 U.S.C. §
10 1441(b); *see also Lively v. Wild Oats Markets, Inc.*, 456 F.3d 933, 939 (9th Cir. 2006).

11 Because Amato is a citizen of Nevada and the Dunlaps filed this action in Nevada state
12 court, the forum defendant rule bars Tracker from removing this action to federal court. (ECF
13 No. 1-2 at 8–9). Thus, the court does not have subject matter jurisdiction pursuant to 28 U.S.C. §
14 1332.

15 *ii. Federal question jurisdiction*

16 Only “state-court actions that originally could have been filed in federal court may be
17 removed to federal court by the defendant.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392,
18 107 S. Ct. 2425, 96 L.Ed.2d 318 (1987). While federal question jurisdiction “is governed by the
19 ‘well-pleaded complaint rule,’” federal question jurisdiction also exists over tort claims that arise
20 on federal enclaves. *Id.* (citing *Gully v. First Nat’l Bank*, 299 U.S. 109, 112–13, 57 S. Ct. 96, 81
21 L.Ed. 70 (1936)); *Durham*, 445 F.3d at 1250 (citing *Willis v. Craig*, 555 F.2d 724, 726 n.4 (9th
22 Cir. 1977) (per curiam); *see also Mater v. Holley*, 200 F.2d 123, 125 (5th Cir. 1952)); 28 U.S.C.
23 § 1331. Federal enclaves exist where property is “purchased by the Consent of the Legislature of
24 the State . . . for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful
25 Buildings[.]” U.S. Const. art. I, § 8, cl. 17.

26 The Ninth Circuit, as well as this district, has recognized Lake Mead as a federal enclave.
27 *United States v. Reed*, 734 F.3d 881, 885 (9th Cir. 2013) (“Lake Mead National Recreation Area
28 is federally owned”); *United States v. Seitles*, No. 2:04-cv-00408-KJD-PAL, 2006 WL 1367374

1 at *2 (D. Nev. May 12, 2006) (“federal enclaves, such as [] Lake Mead”); *see generally* *Newton*
2 *v. Parker Drilling Mgmt. Servs., Ltd.*, 881 F.3d 1078, 1094–95 (9th Cir. 2018) (reiterating that
3 Lake Mead is a federal enclave (citing *Reed*, 734 F.3d at 884–93)). Thus, because the Dunlaps’
4 state tort claims arose on Lake Mead, the court has subject matter jurisdiction pursuant to 28
5 U.S.C. § 1331.

6 **IV. Conclusion**

7 Accordingly,

8 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Tracker’s motion for
9 leave to file surreply (ECF No. 25) be, and the same hereby is, DENIED.

10 IT IS FURTHERED ORDERED that the Dunlaps’ motion to remand (ECF No. 9) be,
11 and the same hereby is, DENIED.

12 DATED July 3, 2019.

13 
14 _____
UNITED STATES DISTRICT JUDGE

B

EXHIBIT B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
Plaintiff,

v.

GRG ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona Limited
Liability Company; DOES I-X, unknown persons;
and ROE Corporations I-X;

Defendants.

Case No. **CASE NO: A-20-811430-C**
Dept. No.: **Department 30**

SUMMONS

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
READ THE INFORMATION BELOW.**

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:

(a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

(b) Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Dated this ____ day of _____ 2020.

STEVEN D. GRIERSON

CLERK OF THE COURT

Issued at the request of:

RYAN ALEXANDER, CHTD.

RYAN ALEXANDER, ESQ.

Nevada Bar No. 10845

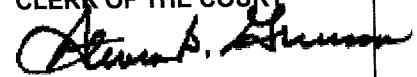
3017 West Charleston Blvd., Ste. 58

Las Vegas, NV 89102

Marie Kramer

3/2/2020

Electronically Filed
3/1/2020 11:15 PM
Steven D. Grierson
CLERK OF THE COURT



COMP
RYAN ALEXANDER
Nevada Bar No. 10845
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Phone: (702) 868-3311
Fax: (702) 822-1133
Attorney for Plaintiff

CASE NO: A-20-811430-C
Department 30

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
Plaintiff,

Case No.:
Dept. No.:

v.

COMPLAINT

GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business as
MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona
Limited Liability Company; DOES I-X,
unknown persons; and ROE Corporations I-X;
Defendants.

CAUSES OF ACTION:

- (1) Negligence
- (2) Negligence

COMES NOW, Plaintiff SHAUN GOODRICH ("Plaintiff," "GOODRICH"), by and through his attorney of record, Ryan Alexander, Esq., as and for his Complaint against Defendants MACKENZIE RIVER LLC, a Delaware Limited Liability Company doing business as MACKENZIE RIVER ("MACKENZIE RIVER"), DOES I through X, inclusive, and ROE CORPORATIONS I-X, inclusive (collectively, "Defendants"), and hereby complains, alleges and states as follows:

PARTIES

1. Plaintiff SHAUN GOODRICH is an individual who resides in Clark County, Nevada.
2. Defendant GRG ENTERPRISES, LLC ("MACKENZIE RIVER") is a Montana Limited Liability Company doing business as "MacKenzie River Pizza, Grill & Pub" in Clark County, Nevada.
3. Defendant CALLVILLE BAY RESORT & MARINA is a Nevada association entity doing business as "Callville Bay Resort & Marina" in Clark County, Nevada.
4. Defendant FOREVER RESORTS, LLC is an Arizona limited liability company doing business as

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

1 “Callville Bay Marina” in Clark County, Nevada.

2 5. The true names and capacities, whether individual, corporate, associate or otherwise of other
3 Defendant hereinafter designated as DOES I-X, inclusive, and/or ROE CORPORATIONS I-X,
4 inclusive, who are in some manner responsible for injuries described herein, are unknown at this time.
5 Plaintiff, therefore, sues said Defendant by such fictitious names and will seek leave of the Court to
6 amend this Complaint to show their true names and capacities when ascertained.

7 6. Upon information and belief, at all times pertinent, Defendants were agents, servants, employees or
8 joint venturers of every other Defendant herein, and at all time mentioned hereinafter were acting
9 within the scope and course of said agency, employment, or joint venture, with knowledge and
10 permission and consent of all other Defendants.

11 7. The Defendants are jointly and severally liable for each defendant’s actions.

12 13 **VENUE AND JURISDICTION**

14 8. Venue is proper in Clark County, Nevada pursuant to NRS 13.040.

15 9. Jurisdiction by this Court over each Defendant in this civil action is proper pursuant to NRS 14.065.

16 10. The incidents for which Plaintiff complains and for which Defendants are liable arises out of
17 negligence of GRG ENTERPRISES, LLC, CALLVILLE BAY RESORT & MARINA and FOREVER
18 RESORTS, LLC, which are doing business in Clark County, Nevada.

19 20 **GENERAL ALLEGATIONS**

21 **March 11, 2018 - Fall at MacKenzie River**

22 11. Defendant MACKENZIE RIVER owns, operates, manages and controls the restaurant known
23 as MacKenzie River Pizza, Grill & Pub at 1550 S. Pavillion Center Drive in Las Vegas, Nevada.

24 12. At all the times hereinafter mentioned, Defendant MACKENZIE RIVER was in control of the
25 management of said restaurant and Defendant held itself out to the public by the as the proprietor.

26 13. Defendant MACKENZIE RIVER employed managers and attendants, to attend the common
27 areas and seating area of the above-mentioned premises at MacKenzie River Pizza, Grill & Pub, to
28 assist persons lawfully using said premises, and to maintain the facilities.

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

14. Defendant held out the aforesaid premises to the public, as a pizzeria chain restaurant.

15. On March 11, 2018, GOODRICH was a customer at MACKENZIE RIVER, seated in a chair.

16. As GOODRICH was seated, the chair either became loose, slipped, tipped, rocked or wobbled.

17. GOODRICH fell to the floor.

18. GOODRICH was helped up to a chair and was then transported by ambulance to a hospital.

19. Defendants knew or should have known that there was a loose, sliding, tipping, rocking or wobbling chair and that it was a hazard to invitees.

20. There were no caution signs or warnings of loose, sliding, tipping, rocking or wobbling chairs.

21. There were no warnings that the chair was in an unsafe condition.

22. The doctrine of *res ipsa loquitur* is applicable to Plaintiff's action against Defendants herein, in that at the time that Plaintiff fell, the chair was under the exclusive control of Defendants. If Defendants had maintained the chair with reasonable care, instead of in a negligent manner, then, in the ordinary course, Plaintiff would not have fallen as alleged herein.

23. Plaintiff has suffered physical injuries as a result of the fall, and suffered pain and has lost mobility. Plaintiff continues to suffer and will suffer pain from the injuries in the incident.

24. Plaintiff suffered economic losses and adverse employment effects from the incident.

25. Defendants' officers, directors or managing agents had advance knowledge that its employees were unfit for the purposes of their employment, and that their policies and procedures were insufficient and hazardous to the health and safety of guests and patients, and employed the employees and effected the policies and procedures with a conscious disregard of the rights or safety of others.

26. Defendants expressly authorized or ratified the wrongful acts of its employees.

27. Defendants are guilty of oppression, fraud or malice, express or implied.

28. Plaintiff has incurred damages in excess of \$15,000.

//

//

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

May 28, 2018 – Trip and Fall at Callville Bay Marina

29. Defendants CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS LLC (collectively, "CALLVILLE BAY MARINA") own, operate, manage and control the structure and docks known commonly as the Callville Bay Marina in Overton, Nevada.

30. At all the times hereinafter mentioned, Defendant CALLVILLE BAY MARINA was in control of the management of said marina and was "proprietor" thereof.

31. Defendant CALLVILLE BAY MARINA employed attendants and maintenance staff, to attend the common areas and docks of the above-mentioned premises at CALLVILLE BAY MARINA, to assist persons lawfully using said premises, and to maintain the facilities.

32. Defendant held out the aforesaid premises to the public, as a marina and resort.

33. On May 28, 2018, at approximately 8:00pm, GOODRICH was returning with a party on a slip customer's boat and was walking on a dock at Callville Bay Marina, when he tripped over a loose power cord that was attached only in sections along the wooden dock.

34. The area was also poorly lit with a corroded light above.

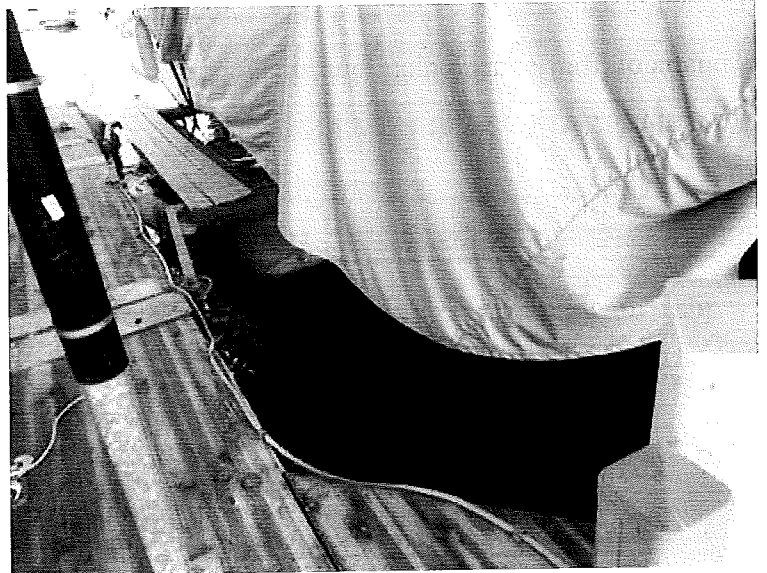
35. GOODRICH caught his foot on the loose power cord and fell off the dock, hitting his head on a wood log and knocked unconscious, then landed face down in the water.

36. GOODRICH's friend and his wife ran over and jumped in, pulled him out, performed CPR and got emergency help.

37. GOODRICH suffered a head wound and aspirated a large amount of water. GOODRICH spent three days in two different hospitals for emergency care.

38. Defendants knew or should have known that there was a loosely attached power cord along the dock and that it was a hazard to invitees.

39. There were no caution signs or warnings of power cord.



RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

40. There were no warnings that the dock was in an unsafe or hazardous condition from loose, dangling or unmaintained power cords.

41. The doctrine of *res ipsa loquitur* is applicable to Plaintiff's action against Defendants herein, in that at the time that Plaintiff fell, the dock was under the exclusive control of Defendants. If Defendants had maintained the dock with reasonable care, instead of in a negligent manner, then, in the ordinary course, Plaintiff would not have fallen as alleged herein.

42. Plaintiff suffered physical injuries as a result of the fall, suffered pain and has lost mobility. Plaintiff continues to suffer and will suffer pain from the injuries in the incident.

43. Notably, on December 16, 2019, GOODRICH underwent a cervical anterior decompression and fusion surgery.

44. Plaintiff suffered economic losses and adverse employment effects from the incident.

45. Defendants' officers, directors or managing agents had advance knowledge that its employees were unfit for the purposes of their employment, and that their policies and procedures were insufficient and hazardous to the health and safety of guests and patients, and employed the employees and effected the policies and procedures with a conscious disregard of the rights or safety of others.

46. Defendants expressly authorized or ratified the wrongful acts of its employees.

47. Defendants are guilty of oppression, fraud or malice, express or implied.

48. Plaintiff has incurred damages in excess of \$15,000.

FIRST CLAIM FOR RELIEF

(Negligence Against GRG Enterprises, LLC)

49. Plaintiff hereby repeats and alleges all previous paragraphs, as though fully set forth herein.

50. Plaintiff fell as aforesaid, by reason of the negligence of the Defendants in failing to clean and properly maintain the chairs of MACKENZIE RIVER; in maintaining said chair that GOODRICH used in a condition dangerous to the life and limb of persons lawfully using same, in that they failed to repair their seating; in maintaining said chair in a slippery condition, dangerous to the life and limb of persons using the same; in failing to use proper maintenance standards, and to exercise proper care, or to remedy the slippery or wobbly condition of the chairs of the aforesaid premises appropriate

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

1 adhesives, tension of bolts or screws, position of pegs, coatings.

2 51. Defendants failed to maintain the chairs of their facility in reasonably safe condition for use.

3 52. Defendants knew that broken equipment, employees or other customers might cause chairs to
4 loosen, slide, tip, rock or wobble and cause a danger to Plaintiff that was foreseeable.

5 53. Defendants and its attendants failed to take reasonable precautions against the foreseeable
6 dangerous condition caused by employees or other guests.

7 54. Upon information and belief, Defendants knew of prior incidents of similar dangerous
8 conditions of loose, sliding, tipping, rocking or wobbling chairs being caused on the premises caused
9 by broken equipment, employees or other customers.

10 55. Defendants knew or should have known about the condition of the loose, sliding, tipping,
11 rocking or wobbling chairs.

12 56. As a result of Defendants' negligence, Plaintiff suffered physical and emotional pain.

13 57. As such, Defendant is responsible for damages in excess of \$15,000.00.

14 58. Because of Defendants' acts or omissions, Plaintiff has been required to incur further attorneys'
15 fees and costs in bringing this action and request that the Court grant said fees and costs.

16
17 **SECOND CLAIM FOR RELIEF**

18 *(Negligence Against CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS, LLC)*

19 59. Plaintiff hereby repeats and alleges all previous paragraphs, as though fully set forth herein.

20 60. Plaintiff fell as aforesaid, by reason of the negligence of the Defendants in failing to clear and
21 maintain the grounds of said premises of CALLVILLE BAY MARINA; in maintaining said dock in a
22 condition dangerous to the life and limb of persons lawfully using same, in that they failed to clear the
23 dock of cords, debris and hazards to pedestrians and to maintain and cleaning the overhead lighting; in
24 maintaining said dock in a condition fraught with obstacles and tripping hazards; in maintain the
25 lighting of the dock in a dim, poorly lit condition dangerous to the life and limb of persons using the
26 same; in failing to use proper cleaning and maintenance standards, and to exercise proper care, or to
27 remedy the hazardous condition of the dock to the aforesaid premises by removing loose cords,
28 applying covers to cords, not leaving cords loose or dangling, by cleaning and repairing the overhead

1 lighting or with warning signs and cones.

2 61. Defendants failed to maintain the dock of their facility in reasonably safe condition for use.

3 62. Defendants knew that broken equipment, employees or other customers might cause power
4 cords to become slack, loose, unattached or dangling and cause a danger to Plaintiff that was
5 foreseeable.

6 63. Further, Defendants knew that broken equipment, employees or other customers might cause
7 lighting to fail, become corroded, or darken areas of the docks and cause a danger to Plaintiff that was
8 foreseeable.

9 64. Defendants and its attendants failed to take reasonable precautions against the foreseeable
10 dangerous condition caused by employees or other guests.

11 65. Upon information and belief, Defendants knew of prior incidents of similar dangerous
12 conditions of power cords to become slack, loose, unattached or dangling on the docks being caused
13 on the premises caused by broken equipment, employees or other customers.

14 66. Further, upon information and belief, Defendants knew of prior incidents of similar dangerous
15 conditions of poorly lit areas being caused on the premises caused by broken equipment, employees or
16 other customers.

17 67. Defendants knew or should have known about the condition of the dock.

18 68. As a result of Defendants' negligence, Plaintiff has suffered physical and emotional pain.

19 69. As such, Defendant is responsible for damages in excess of \$15,000.00.

20 70. Because of Defendants' acts or omissions, Plaintiff has been required to incur further attorneys'
21 fees and costs in bringing this action and request that the Court grant said fees and costs.

22
23 ...

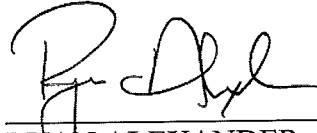
24 WHEREFORE, Plaintiff is entitled to judgment in his favor and against Defendants, jointly and
25 severally, as follows:

- 26 1. For judgment for general and special damages in an amount in excess of \$15,000.00;
27 2. For all costs and all attorneys' fees incurred and accrued in these proceedings;
28 3. For interest thereon at the legal rate until paid in full;

4. For punitive damages in an amount to be determined by this court; and
5. For such other and further relief as the Court may deem just and proper.

Dated March 1, 2020.

RYAN ALEXANDER, CHTD.



RYAN ALEXANDER
Nevada Bar No. 10845
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Attorney for Plaintiff

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

DISTRICT COURT CIVIL COVER SHEET

Clark

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

CASE NO: A-20-811430-C

Department 30

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Shaun Goodrich

Defendant(s) (name/address/phone):

GRG Enterprises, LLC

Callville Bay Resort & Marina

Forever Resorts LLC

Attorney (name/address/phone):

Ryan Alexander, Esq. • NV Bar No. 10845

RYAN ALEXANDER, CHTD.

3017 W. Charleston Blvd. Ste. 58, Las Vegas, NV 89

Phone: (702) 868-3311 Fax: (702) 822-1133

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Negligence	Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<input type="checkbox"/> Auto <input checked="" type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input checked="" type="checkbox"/> Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Greater than \$300,000 <input type="checkbox"/> \$200,000-\$300,000 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-\$20,000 <input type="checkbox"/> \$2,500 or less	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

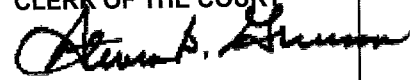
3/1/2020

Date

Signature of initiating party or representative

See other side for family-related case filings.

Electronically Filed
3/1/2020 11:15 PM
Steven D. Grierson
CLERK OF THE COURT



IAFD
RYAN ALEXANDER
Nevada Bar No. 10845
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Phone: (702) 868-3311
Fax: (702) 822-1133
Attorney for Plaintiff

CASE NO: A-20-811430-C
Department 30

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
Plaintiff,

Case No.:
Dept. No.:

v.

**INITIAL APPEARANCE FEE
DISCLOSURE**

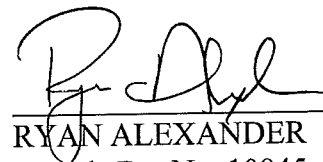
GRG ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona Limited
Liability Company; DOES I-X, unknown
persons; and ROE Corporations I-X;
Defendants.

Pursuant to Nevada Revised Statutes, Chapter 19, filing fees are submitted herewith for parties
appearing in the above-entitled action as indicated below:

<u>SHAUN GOODRICH</u>	\$ 270.00
TOTAL REMITTED:	\$ 270.00

Dated March 1, 2020.

RYAN ALEXANDER, CHTD.



RYAN ALEXANDER
Nevada Bar No. 10845
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Attorney for Plaintiff

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

Electronically Filed
3/13/2020 9:59 AM
Steven D. Grierson
CLERK OF THE COURT

Job # 8659

PROOF OF SERVICE

Case Info:

PLAINTIFF:

SHAUN GOODRICH, an Individual;

-versus-

DEFENDANT:

GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER; CALLVILLE BAY RESORT & MARINA, a Nevada Entity; FOREVER RESORT LLC, an Arizona Limited Liability Company; DOES I-X, unknown persons; and ROE Corporations I-X;

District Court
Court Division: Dept. No.: 30
County of Clark, Nevada

Issuance Date: 3/2/2020 Court Case # **A-20-811430-C**

Service Info:

Date Received: 3/2/2020 at 10:08 AM

Service: I Served **CALLVILLE BAY RESORT & MARINA, a Nevada Entity**

With: SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD

by leaving with Bruce Reilly, MANAGER

At Business 100 CALLVILLE MARINA RD., LAS VEGAS, NV 89124

Latitude: **36.142137**

Longitude: **-114.722576**

On 3/12/2020 at 02:43 PM

Manner of Service: BUSINESS

SERVED: by delivering a true copy of this **SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD** to: **Bruce Reilly, MANAGER** at the address of: **100 Callville Marina Rd., Las Vegas, NV 89124** of the named person's usual place of place of business with an authorized person according to NV Rules of Civil Procedure.

Served Description: (Approx)

Age: **50**, Sex: **Male**, Race: **White-Caucasian**, Height: **5' 11"**, Weight: **200**, Hair: **Gray** Glasses: **No**

I **Jacqueline T. Kohler** acknowledge that I am authorized to serve process, in good standing in the jurisdiction wherein this process was served and I have no interest in the above action. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Server:

Jacqueline T. Kohler

Jacqueline T. Kohler, Lic # R-097043

LV Process and Investigations, LLC

License #2039

10829 Whipple Crest Ave.

Las Vegas, NV 89166

Phone: (702) 592-3283

Our Job # **8659**



Electronically Filed
3/13/2020 9:59 AM
Steven D. Grierson
CLERK OF THE COURT

Job # 8660
Steven D. Grierson

PROOF OF SERVICE

Case Info:

PLAINTIFF:

SHAUN GOODRICH, an Individual;

-versus-

DEFENDANT:

GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER; CALLVILLE BAY RESORT & MARINA, a Nevada Entity; FOREVER RESORT LLC, an Arizona Limited Liability Company; DOES I-X, unknown persons; and ROE Corporations I-X;

District Court
Court Division: Dept. No.: 30
County of Clark, Nevada

Issuance Date: 3/2/2020 Court Case # **A-20-811430-C**

Service Info:

Date Received: 3/2/2020 at 10:08 AM

Service: I Served **FOREVER RESORT LLC, an Arizona Limited Liability Company**

With: SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD

by leaving with Bruce Reilly, MANAGER

At Business 100 CALLVILLE MARINA RD., LAS VEGAS, NV 89124

Latitude: **36.142137**

Longitude: **-114.722576**

On 3/12/2020 at 02:43 PM

Manner of Service: BUSINESS

SERVED: by delivering a true copy of this **SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD** to: **Bruce Reilly, MANAGER** at the address of: **100 Callville Marina Rd., Las Vegas, NV 89124** of the named person's usual place of place of business with an authorized person according to NV Rules of Civil Procedure.

Served Description: (Approx)

Age: **50**, Sex: **Male**, Race: **White-Caucasian**, Height: **5' 11"**, Weight: **200**, Hair: **Gray** Glasses: **No**

I **Jacqueline T. Kohler** acknowledge that I am authorized to serve process, in good standing in the jurisdiction wherein this process was served and I have no interest in the above action. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Server: _____

Jacqueline T. Kohler

Jacqueline T. Kohler, Lic # R-097043

LV Process and Investigations, LLC

License #2039

10829 Whipple Crest Ave.

Las Vegas, NV 89166

Phone: (702) 592-3283

Our Job # **8660**



C

EXHIBIT C

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
Plaintiff,

v.

GRG ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona Limited
Liability Company; DOES I-X, unknown persons;
and ROE Corporations I-X;

Defendants.

Case No. **CASE NO: A-20-811430-C**
Dept. No.: **Department 30**

SUMMONS

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
READ THE INFORMATION BELOW.**

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:

(a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

(b) Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Dated this ____ day of _____ 2020.

STEVEN D. GRIERSON

CLERK OF THE COURT

Issued at the request of:

RYAN ALEXANDER, CHTD.

RYAN ALEXANDER, ESQ.

Nevada Bar No. 10845

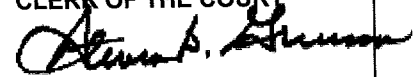
3017 West Charleston Blvd., Ste. 58

Las Vegas, NV 89102

Marie Kramer

3/2/2020

Electronically Filed
3/1/2020 11:15 PM
Steven D. Grierson
CLERK OF THE COURT



COMP
RYAN ALEXANDER
Nevada Bar No. 10845
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Phone: (702) 868-3311
Fax: (702) 822-1133
Attorney for Plaintiff

CASE NO: A-20-811430-C
Department 30

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
Plaintiff,

Case No.:
Dept. No.:

v.

COMPLAINT

GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business as
MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona
Limited Liability Company; DOES I-X,
unknown persons; and ROE Corporations I-X;
Defendants.

CAUSES OF ACTION:

- (1) Negligence
- (2) Negligence

COMES NOW, Plaintiff SHAUN GOODRICH ("Plaintiff," "GOODRICH"), by and through his attorney of record, Ryan Alexander, Esq., as and for his Complaint against Defendants MACKENZIE RIVER LLC, a Delaware Limited Liability Company doing business as MACKENZIE RIVER ("MACKENZIE RIVER"), DOES I through X, inclusive, and ROE CORPORATIONS I-X, inclusive (collectively, "Defendants"), and hereby complains, alleges and states as follows:

PARTIES

1. Plaintiff SHAUN GOODRICH is an individual who resides in Clark County, Nevada.
2. Defendant GRG ENTERPRISES, LLC ("MACKENZIE RIVER") is a Montana Limited Liability Company doing business as "MacKenzie River Pizza, Grill & Pub" in Clark County, Nevada.
3. Defendant CALLVILLE BAY RESORT & MARINA is a Nevada association entity doing business as "Callville Bay Resort & Marina" in Clark County, Nevada.
4. Defendant FOREVER RESORTS, LLC is an Arizona limited liability company doing business as

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

1 “Callville Bay Marina” in Clark County, Nevada.

2 5. The true names and capacities, whether individual, corporate, associate or otherwise of other
3 Defendant hereinafter designated as DOES I-X, inclusive, and/or ROE CORPORATIONS I-X,
4 inclusive, who are in some manner responsible for injuries described herein, are unknown at this time.
5 Plaintiff, therefore, sues said Defendant by such fictitious names and will seek leave of the Court to
6 amend this Complaint to show their true names and capacities when ascertained.

7 6. Upon information and belief, at all times pertinent, Defendants were agents, servants, employees or
8 joint venturers of every other Defendant herein, and at all time mentioned hereinafter were acting
9 within the scope and course of said agency, employment, or joint venture, with knowledge and
10 permission and consent of all other Defendants.

11 7. The Defendants are jointly and severally liable for each defendant’s actions.

12 13 **VENUE AND JURISDICTION**

14 8. Venue is proper in Clark County, Nevada pursuant to NRS 13.040.

15 9. Jurisdiction by this Court over each Defendant in this civil action is proper pursuant to NRS 14.065.

16 10. The incidents for which Plaintiff complains and for which Defendants are liable arises out of
17 negligence of GRG ENTERPRISES, LLC, CALLVILLE BAY RESORT & MARINA and FOREVER
18 RESORTS, LLC, which are doing business in Clark County, Nevada.

19 20 **GENERAL ALLEGATIONS**

21 **March 11, 2018 - Fall at MacKenzie River**

22 11. Defendant MACKENZIE RIVER owns, operates, manages and controls the restaurant known
23 as MacKenzie River Pizza, Grill & Pub at 1550 S. Pavillion Center Drive in Las Vegas, Nevada.

24 12. At all the times hereinafter mentioned, Defendant MACKENZIE RIVER was in control of the
25 management of said restaurant and Defendant held itself out to the public by the as the proprietor.

26 13. Defendant MACKENZIE RIVER employed managers and attendants, to attend the common
27 areas and seating area of the above-mentioned premises at MacKenzie River Pizza, Grill & Pub, to
28 assist persons lawfully using said premises, and to maintain the facilities.

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

14. Defendant held out the aforesaid premises to the public, as a pizzeria chain restaurant.

15. On March 11, 2018, GOODRICH was a customer at MACKENZIE RIVER, seated in a chair.

16. As GOODRICH was seated, the chair either became loose, slipped, tipped, rocked or wobbled.

17. GOODRICH fell to the floor.

18. GOODRICH was helped up to a chair and was then transported by ambulance to a hospital.

19. Defendants knew or should have known that there was a loose, sliding, tipping, rocking or wobbling chair and that it was a hazard to invitees.

20. There were no caution signs or warnings of loose, sliding, tipping, rocking or wobbling chairs.

21. There were no warnings that the chair was in an unsafe condition.

22. The doctrine of *res ipsa loquitur* is applicable to Plaintiff's action against Defendants herein, in that at the time that Plaintiff fell, the chair was under the exclusive control of Defendants. If Defendants had maintained the chair with reasonable care, instead of in a negligent manner, then, in the ordinary course, Plaintiff would not have fallen as alleged herein.

23. Plaintiff has suffered physical injuries as a result of the fall, and suffered pain and has lost mobility. Plaintiff continues to suffer and will suffer pain from the injuries in the incident.

24. Plaintiff suffered economic losses and adverse employment effects from the incident.

25. Defendants' officers, directors or managing agents had advance knowledge that its employees were unfit for the purposes of their employment, and that their policies and procedures were insufficient and hazardous to the health and safety of guests and patients, and employed the employees and effected the policies and procedures with a conscious disregard of the rights or safety of others.

26. Defendants expressly authorized or ratified the wrongful acts of its employees.

27. Defendants are guilty of oppression, fraud or malice, express or implied.

28. Plaintiff has incurred damages in excess of \$15,000.

//

//

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

May 28, 2018 – Trip and Fall at Callville Bay Marina

29. Defendants CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS LLC (collectively, "CALLVILLE BAY MARINA") own, operate, manage and control the structure and docks known commonly as the Callville Bay Marina in Overton, Nevada.

30. At all the times hereinafter mentioned, Defendant CALLVILLE BAY MARINA was in control of the management of said marina and was "proprietor" thereof.

31. Defendant CALLVILLE BAY MARINA employed attendants and maintenance staff, to attend the common areas and docks of the above-mentioned premises at CALLVILLE BAY MARINA, to assist persons lawfully using said premises, and to maintain the facilities.

32. Defendant held out the aforesaid premises to the public, as a marina and resort.

33. On May 28, 2018, at approximately 8:00pm, GOODRICH was returning with a party on a slip customer's boat and was walking on a dock at Callville Bay Marina, when he tripped over a loose power cord that was attached only in sections along the wooden dock.

34. The area was also poorly lit with a corroded light above.

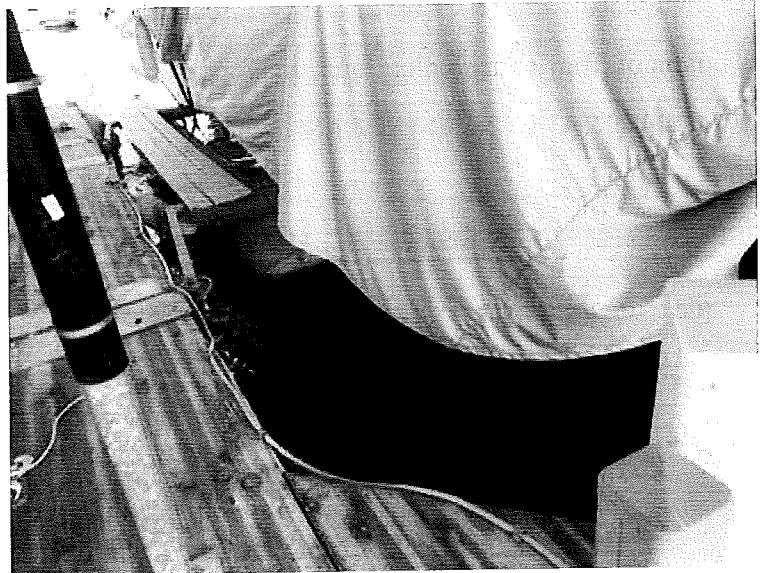
35. GOODRICH caught his foot on the loose power cord and fell off the dock, hitting his head on a wood log and knocked unconscious, then landed face down in the water.

36. GOODRICH's friend and his wife ran over and jumped in, pulled him out, performed CPR and got emergency help.

37. GOODRICH suffered a head wound and aspirated a large amount of water. GOODRICH spent three days in two different hospitals for emergency care.

38. Defendants knew or should have known that there was a loosely attached power cord along the dock and that it was a hazard to invitees.

39. There were no caution signs or warnings of power cord.



RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

40. There were no warnings that the dock was in an unsafe or hazardous condition from loose, dangling or unmaintained power cords.

41. The doctrine of *res ipsa loquitur* is applicable to Plaintiff's action against Defendants herein, in that at the time that Plaintiff fell, the dock was under the exclusive control of Defendants. If Defendants had maintained the dock with reasonable care, instead of in a negligent manner, then, in the ordinary course, Plaintiff would not have fallen as alleged herein.

42. Plaintiff suffered physical injuries as a result of the fall, suffered pain and has lost mobility. Plaintiff continues to suffer and will suffer pain from the injuries in the incident.

43. Notably, on December 16, 2019, GOODRICH underwent a cervical anterior decompression and fusion surgery.

44. Plaintiff suffered economic losses and adverse employment effects from the incident.

45. Defendants' officers, directors or managing agents had advance knowledge that its employees were unfit for the purposes of their employment, and that their policies and procedures were insufficient and hazardous to the health and safety of guests and patients, and employed the employees and effected the policies and procedures with a conscious disregard of the rights or safety of others.

46. Defendants expressly authorized or ratified the wrongful acts of its employees.

47. Defendants are guilty of oppression, fraud or malice, express or implied.

48. Plaintiff has incurred damages in excess of \$15,000.

FIRST CLAIM FOR RELIEF

(Negligence Against GRG Enterprises, LLC)

49. Plaintiff hereby repeats and alleges all previous paragraphs, as though fully set forth herein.

50. Plaintiff fell as aforesaid, by reason of the negligence of the Defendants in failing to clean and properly maintain the chairs of MACKENZIE RIVER; in maintaining said chair that GOODRICH used in a condition dangerous to the life and limb of persons lawfully using same, in that they failed to repair their seating; in maintaining said chair in a slippery condition, dangerous to the life and limb of persons using the same; in failing to use proper maintenance standards, and to exercise proper care, or to remedy the slippery or wobbly condition of the chairs of the aforesaid premises appropriate

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

adhesives, tension of bolts or screws, position of pegs, coatings.

51. Defendants failed to maintain the chairs of their facility in reasonably safe condition for use.

52. Defendants knew that broken equipment, employees or other customers might cause chairs to loosen, slide, tip, rock or wobble and cause a danger to Plaintiff that was foreseeable.

53. Defendants and its attendants failed to take reasonable precautions against the foreseeable dangerous condition caused by employees or other guests.

54. Upon information and belief, Defendants knew of prior incidents of similar dangerous conditions of loose, sliding, tipping, rocking or wobbling chairs being caused on the premises caused by broken equipment, employees or other customers.

55. Defendants knew or should have known about the condition of the loose, sliding, tipping, rocking or wobbling chairs.

56. As a result of Defendants' negligence, Plaintiff suffered physical and emotional pain.

57. As such, Defendant is responsible for damages in excess of \$15,000.00.

58. Because of Defendants' acts or omissions, Plaintiff has been required to incur further attorneys' fees and costs in bringing this action and request that the Court grant said fees and costs.

SECOND CLAIM FOR RELIEF

(Negligence Against CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS, LLC)

59. Plaintiff hereby repeats and alleges all previous paragraphs, as though fully set forth herein.

60. Plaintiff fell as aforesaid, by reason of the negligence of the Defendants in failing to clear and maintain the grounds of said premises of CALLVILLE BAY MARINA; in maintaining said dock in a condition dangerous to the life and limb of persons lawfully using same, in that they failed to clear the dock of cords, debris and hazards to pedestrians and to maintain and cleaning the overhead lighting; in maintaining said dock in a condition fraught with obstacles and tripping hazards; in maintain the lighting of the dock in a dim, poorly lit condition dangerous to the life and limb of persons using the same; in failing to use proper cleaning and maintenance standards, and to exercise proper care, or to remedy the hazardous condition of the dock to the aforesaid premises by removing loose cords, applying covers to cords, not leaving cords loose or dangling, by cleaning and repairing the overhead

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

1 lighting or with warning signs and cones.

2 61. Defendants failed to maintain the dock of their facility in reasonably safe condition for use.

3 62. Defendants knew that broken equipment, employees or other customers might cause power
4 cords to become slack, loose, unattached or dangling and cause a danger to Plaintiff that was
5 foreseeable.

6 63. Further, Defendants knew that broken equipment, employees or other customers might cause
7 lighting to fail, become corroded, or darken areas of the docks and cause a danger to Plaintiff that was
8 foreseeable.

9 64. Defendants and its attendants failed to take reasonable precautions against the foreseeable
10 dangerous condition caused by employees or other guests.

11 65. Upon information and belief, Defendants knew of prior incidents of similar dangerous
12 conditions of power cords to become slack, loose, unattached or dangling on the docks being caused
13 on the premises caused by broken equipment, employees or other customers.

14 66. Further, upon information and belief, Defendants knew of prior incidents of similar dangerous
15 conditions of poorly lit areas being caused on the premises caused by broken equipment, employees or
16 other customers.

17 67. Defendants knew or should have known about the condition of the dock.

18 68. As a result of Defendants' negligence, Plaintiff has suffered physical and emotional pain.

19 69. As such, Defendant is responsible for damages in excess of \$15,000.00.

20 70. Because of Defendants' acts or omissions, Plaintiff has been required to incur further attorneys'
21 fees and costs in bringing this action and request that the Court grant said fees and costs.

22
23 ...

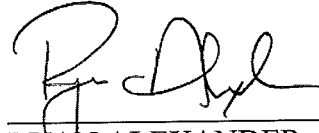
24 WHEREFORE, Plaintiff is entitled to judgment in his favor and against Defendants, jointly and
25 severally, as follows:

- 26 1. For judgment for general and special damages in an amount in excess of \$15,000.00;
27 2. For all costs and all attorneys' fees incurred and accrued in these proceedings;
28 3. For interest thereon at the legal rate until paid in full;

4. For punitive damages in an amount to be determined by this court; and
5. For such other and further relief as the Court may deem just and proper.

Dated March 1, 2020.

RYAN ALEXANDER, CHTD.



RYAN ALEXANDER
Nevada Bar No. 10845
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Attorney for Plaintiff

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

DISTRICT COURT CIVIL COVER SHEET

Clark

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

CASE NO: A-20-811430-C

Department 30

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Shaun Goodrich

Defendant(s) (name/address/phone):

GRG Enterprises, LLC

Callville Bay Resort & Marina

Forever Resorts LLC

Attorney (name/address/phone):

Ryan Alexander, Esq. • NV Bar No. 10845

RYAN ALEXANDER, CHTD.

3017 W. Charleston Blvd. Ste. 58, Las Vegas, NV 89

Phone: (702) 868-3311 Fax: (702) 822-1133

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Negligence	Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<input type="checkbox"/> Auto <input checked="" type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input checked="" type="checkbox"/> Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Greater than \$300,000 <input type="checkbox"/> \$200,000-\$300,000 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-\$20,000 <input type="checkbox"/> \$2,500 or less	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

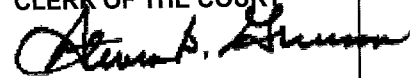
3/1/2020

Date

Signature of initiating party or representative

See other side for family-related case filings.

Electronically Filed
3/1/2020 11:15 PM
Steven D. Grierson
CLERK OF THE COURT



IAFD
RYAN ALEXANDER
Nevada Bar No. 10845
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Phone: (702) 868-3311
Fax: (702) 822-1133
Attorney for Plaintiff

CASE NO: A-20-811430-C
Department 30

**DISTRICT COURT
CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
Plaintiff,

Case No.:
Dept. No.:

v.

**INITIAL APPEARANCE FEE
DISCLOSURE**

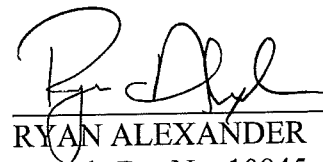
GRG ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona Limited
Liability Company; DOES I-X, unknown
persons; and ROE Corporations I-X;
Defendants.

Pursuant to Nevada Revised Statutes, Chapter 19, filing fees are submitted herewith for parties
appearing in the above-entitled action as indicated below:

<u>SHAUN GOODRICH</u>	\$ 270.00
TOTAL REMITTED:	\$ 270.00

Dated March 1, 2020.

RYAN ALEXANDER, CHTD.



RYAN ALEXANDER
Nevada Bar No. 10845
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Attorney for Plaintiff

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

Electronically Filed
3/5/2020 8:47 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson
Job # 8657

AFFIDAVIT OF SERVICE

Case Info:

PLAINTIFF:

SHAUN GOODRICH, an Individual;

-versus-

DEFENDANT:

GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER; CALLVILLE BAY RESORT & MARINA, a Nevada Entity; FOREVER RESORT LLC, an Arizona Limited Liability Company; DOES I-X, unknown persons; and ROE Corporations I-X;

District Court
Court Division: Dept. No.: 30
County of Clark, Nevada

Issuance Date: 3/2/2020 Court Case # **A-20-811430-C**

Service Info:

Date Received: 3/2/2020 at 10:08 AM

Service: I Served **GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER** With: **SUMMONS; COMPLAINT; CIVIL COVER SHEET; INITIAL APPEARANCE FEE DISCLOSURE** by leaving with **William C. Hagin, REGISTERED AGENT**

At Business **284 FLATHEAD AVE., SUITE 200, WHITEFISH, MT 59937**

On **3/3/2020** at **10:05 AM**

Manner of Service: **CORPORATE**

Corporate Service was performed by delivering a true copy to designated person to accept.

I **ROBERT WALKER**, acknowledge that I am authorized to serve process, in good standing in the jurisdiction wherein the process was served and I have no interest in the above, action. Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Signature of Server:
ROBERT WALKER

March 3, 2020

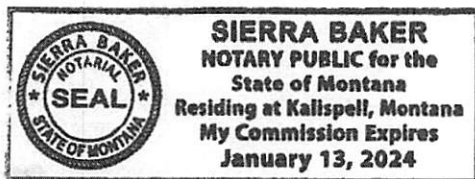
ROBERT WALKER
P.O. BOX 4300
Whitefish, MT 59937

Job # 8657

SUBSCRIBED AND SWORN to before me this 3 day of March, 2020, by Robert Walker.
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Sierra Baker

NOTARY PUBLIC for the state of Montana



Case Number: A-20-811430-C

Electronically Filed
3/13/2020 9:59 AM
Steven D. Grierson
CLERK OF THE COURT

Job # 8659

PROOF OF SERVICE

Case Info:

PLAINTIFF:

SHAUN GOODRICH, an Individual;

-versus-

DEFENDANT:

GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER; CALLVILLE BAY RESORT & MARINA, a Nevada Entity; FOREVER RESORT LLC, an Arizona Limited Liability Company; DOES I-X, unknown persons; and ROE Corporations I-X;

District Court
Court Division: Dept. No.: 30
County of Clark, Nevada

Issuance Date: 3/2/2020 Court Case # **A-20-811430-C**

Service Info:

Date Received: 3/2/2020 at 10:08 AM

Service: I Served **CALLVILLE BAY RESORT & MARINA, a Nevada Entity**

With: SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD

by leaving with Bruce Reilly, MANAGER

At Business 100 CALLVILLE MARINA RD., LAS VEGAS, NV 89124

Latitude: **36.142137**

Longitude: **-114.722576**

On 3/12/2020 at 02:43 PM

Manner of Service: BUSINESS

SERVED: by delivering a true copy of this **SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD** to: **Bruce Reilly , MANAGER** at the address of: **100 Callville Marina Rd., Las Vegas, NV 89124** of the named person's usual place of place of business with an authorized person according to NV Rules of Civil Procedure.

Served Description: (Approx)

Age: **50**, Sex: **Male**, Race: **White-Caucasian**, Height: **5' 11"**, Weight: **200**, Hair: **Gray** Glasses: **No**

I **Jacqueline T. Kohler** acknowledge that I am authorized to serve process, in good standing in the jurisdiction wherein this process was served and I have no interest in the above action. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Server:

Jacqueline T. Kohler

Jacqueline T. Kohler, Lic # R-097043

LV Process and Investigations, LLC

License #2039

10829 Whipple Crest Ave.

Las Vegas, NV 89166

Phone: (702) 592-3283

Our Job # **8659**



Electronically Filed
3/13/2020 9:59 AM
Steven D. Grierson
CLERK OF THE COURT

Job # 8660
Steven D. Grierson

PROOF OF SERVICE

Case Info:

PLAINTIFF:

SHAUN GOODRICH, an Individual;

-versus-

DEFENDANT:

GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing business as MACKENZIE RIVER; CALLVILLE BAY RESORT & MARINA, a Nevada Entity; FOREVER RESORT LLC, an Arizona Limited Liability Company; DOES I-X, unknown persons; and ROE Corporations I-X;

District Court
Court Division: Dept. No.: 30
County of Clark, Nevada

Issuance Date: 3/2/2020 Court Case # **A-20-811430-C**

Service Info:

Date Received: 3/2/2020 at 10:08 AM

Service: I Served **FOREVER RESORT LLC, an Arizona Limited Liability Company**

With: SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD

by leaving with Bruce Reilly, MANAGER

At Business 100 CALLVILLE MARINA RD., LAS VEGAS, NV 89124

Latitude: **36.142137**

Longitude: **-114.722576**

On 3/12/2020 at 02:43 PM

Manner of Service: BUSINESS

SERVED: by delivering a true copy of this **SUMMONS; COMPLAINT; CIVIL COVERSHEET; IAFD** to: **Bruce Reilly, MANAGER** at the address of: **100 Callville Marina Rd., Las Vegas, NV 89124** of the named person's usual place of place of business with an authorized person according to NV Rules of Civil Procedure.

Served Description: (Approx)

Age: **50**, Sex: **Male**, Race: **White-Caucasian**, Height: **5' 11"**, Weight: **200**, Hair: **Gray** Glasses: **No**

I **Jacqueline T. Kohler** acknowledge that I am authorized to serve process, in good standing in the jurisdiction wherein this process was served and I have no interest in the above action. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Server: _____

Jacqueline T. Kohler

Jacqueline T. Kohler, Lic # R-097043

LV Process and Investigations, LLC

License #2039

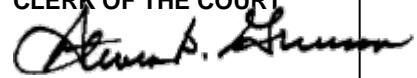
10829 Whipple Crest Ave.

Las Vegas, NV 89166

Phone: (702) 592-3283

Our Job # **8660**





ACOM
 RYAN ALEXANDER
 Nevada Bar No. 10845
 RYAN ALEXANDER, CHTD.
 3017 West Charleston Blvd., Ste. 58
 Las Vegas, NV 89102
 Phone: (702) 868-3311
 Fax: (702) 822-1133
Attorney for Plaintiff

**DISTRICT COURT
 CLARK COUNTY, NEVADA**

SHAUN GOODRICH, an Individual;
 Plaintiffs,

v.

GRG ENTERPRISES, LLC, a Montana Limited
 Liability Company doing business as
 MACKENZIE RIVER; CALLVILLE BAY
 RESORT & MARINA, a Nevada Entity;
 FOREVER RESORTS LLC, an Arizona Limited
 Liability Company; DOES I-X, unknown
 persons; and ROE Corporations I-X;
 Defendants.

Case No.: A-20-811430-C
 Dept. No.: 30

AMENDED COMPLAINT

CAUSES OF ACTION:

- (1) Negligence
- (2) Negligence

COMES NOW, Plaintiff SHAUN GOODRICH ("Plaintiff," "GOODRICH"), by and through his attorney of record, Ryan Alexander, Esq., as and for his Complaint against Defendants MACKENZIE RIVER LLC, a Delaware Limited Liability Company doing business as MACKENZIE RIVER ("MACKENZIE RIVER"), DOES I through X, inclusive, and ROE CORPORATIONS I-X, inclusive (collectively, "Defendants"), and hereby complains, alleges and states as follows:

PARTIES

1. Plaintiff SHAUN GOODRICH is an individual who resides in Clark County, Nevada.
2. Defendant GRG ENTERPRISES, LLC ("MACKENZIE RIVER") is a Montana Limited Liability Company doing business as "MacKenzie River Pizza, Grill & Pub" in Clark County, Nevada.
3. Defendant CALLVILLE BAY RESORT & MARINA is a Nevada association entity doing business as "Callville Bay Resort & Marina" in Clark County, Nevada.

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

- 1 4. Defendant FOREVER RESORTS, LLC is an Arizona limited liability company doing business
2 as "Callville Bay Marina" in Clark County, Nevada.
- 3 5. The true names and capacities, whether individual, corporate, associate or otherwise of other
4 Defendants hereinafter designated as DOES I-X, inclusive, and/or ROE CORPORATIONS I-
5 X, inclusive, who are in some manner responsible for injuries described herein, are unknown at
6 this time. Plaintiff, therefore, sues said Defendant by such fictitious names and will seek leave
7 of the Court to amend this Complaint to show their true names and capacities when
8 ascertained.
- 9 6. Upon information and belief, at all times pertinent, Defendants were agents, servants,
10 employees or joint venturers of every other Defendant herein, and at all time mentioned
11 hereinafter were acting within the scope and course of said agency, employment, or joint
12 venture, with knowledge and permission and consent of all other Defendants.
- 13 7. The Defendants are jointly and severally liable for each defendant's actions.

VENUE AND JURISDICTION

- 15 8. Venue is proper in Clark County, Nevada pursuant to NRS 13.040.
- 16 9. Jurisdiction by this Court over each Defendant in this civil action is proper pursuant to NRS
17 14.065.
- 18 10. The incidents for which Plaintiff complains and for which Defendants are liable arises out of
19 negligence of GRG ENTERPRISES, LLC, CALLVILLE BAY RESORT & MARINA and
20 FOREVER RESORTS, LLC, which are doing business in Clark County, Nevada.

GENERAL ALLEGATIONS

March 11, 2018 - Fall at MacKenzie River

- 23 11. Defendant MACKENZIE RIVER owns, operates, manages and controls the restaurant known
24 as MacKenzie River Pizza, Grill & Pub at 1550 S. Pavillion Center Drive in Las Vegas,
25 Nevada.
- 26 12. At all the times hereinafter mentioned, Defendant MACKENZIE RIVER was in control of the
27 management of said restaurant and Defendant held itself out to the public by the as the
28 proprietor.

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

- 1 13. Defendant MACKENZIE RIVER employed managers and attendants, to attend the common
- 2 areas and seating area of the above-mentioned premises at MacKenzie River Pizza, Grill &
- 3 Pub, to assist persons lawfully using said premises, and to maintain the facilities.
- 4 14. Defendant held out the aforesaid premises to the public, as a pizzeria chain restaurant.
- 5 15. On March 11, 2018, GOODRICH was a customer at MACKENZIE RIVER, seated in a chair.
- 6 16. As GOODRICH was seated, the chair either became loose, slipped, tipped, rocked or wobbled.
- 7 17. GOODRICH fell to the floor.
- 8 18. GOODRICH was helped up to a chair and was then transported by ambulance to a hospital.
- 9 19. Defendants knew or should have known that there was a loose, sliding, tipping, rocking or
- 10 wobbling chair and that it was a hazard to invitees.
- 11 20. There were no caution signs or warnings of loose, sliding, tipping, rocking or wobbling chairs.
- 12 21. There were no warnings that the chair was in an unsafe condition.
- 13 22. The doctrine of *res ipsa loquitur* is applicable to Plaintiff's action against Defendants herein, in
- 14 that at the time that Plaintiff fell, the chair was under the exclusive control of Defendants. If
- 15 Defendants had maintained the chair with reasonable care, instead of in a negligent manner,
- 16 then, in the ordinary course, Plaintiff would not have fallen as alleged herein.
- 17 23. Plaintiff has suffered physical injuries as a result of the fall, and suffered pain and has lost
- 18 mobility. Plaintiff continues to suffer and will suffer pain from the injuries in the incident.
- 19 24. Plaintiff suffered economic losses and adverse employment effects from the incident.
- 20 25. Defendants' officers, directors or managing agents had advance knowledge that its employees
- 21 were unfit for the purposes of their employment, and that their policies and procedures were
- 22 insufficient and hazardous to the health and safety of guests and patients, and employed the
- 23 employees and effected the policies and procedures with a conscious disregard of the rights or
- 24 safety of others.
- 25 26. Defendants expressly authorized or ratified the wrongful acts of its employees.
- 26 27. Plaintiff has incurred damages in excess of \$15,000.

27 //

28 //

May 28, 2018 – Trip and Fall at Callville Bay Marina

28. Defendants CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS LLC (collectively, "CALLVILLE BAY MARINA") own, operate, manage and control the structure and docks known commonly as the Callville Bay Marina in Overton, Nevada.
29. At all the times hereinafter mentioned, Defendant CALLVILLE BAY MARINA was in control of the management of said marina and was "proprietor" thereof.
30. Defendant CALLVILLE BAY MARINA employed attendants and maintenance staff, to attend the common areas and docks of the above-mentioned premises at CALLVILLE BAY MARINA, to assist persons lawfully using said premises, and to maintain the facilities.
31. Defendant held out the aforesaid premises to the public, as a marina and resort.
32. On May 28, 2018, at approximately 8:00pm, GOODRICH was returning with a party on a slip customer's boat and was walking on a dock at Callville Bay Marina, when he tripped over a loose power cord that was attached only in sections along the wooden dock.
33. The area was also poorly lit with a corroded light above.
34. GOODRICH caught his foot on the loose power cord and fell off the dock, hitting his head on a wood log and knocked unconscious, then landed face down in the water.
35. GOODRICH's friend and his wife ran over and jumped in, pulled him out, performed CPR and got emergency help.
36. GOODRICH suffered a head wound and aspirated a large amount of water. GOODRICH spent three days in two different hospitals for emergency care.
37. Defendants knew or should have known that there was a loosely attached power cord along the



1 dock and that it was a hazard to invitees.

2 38. There were no caution signs or warnings of power cord.

3 39. There were no warnings that the dock was in an unsafe or hazardous condition from loose,
4 dangling or unmaintained power cords.

5 40. The doctrine of *res ipsa loquitur* is applicable to Plaintiff's action against Defendants herein, in
6 that at the time that Plaintiff fell, the dock was under the exclusive control of Defendants. If
7 Defendants had maintained the dock with reasonable care, instead of in a negligent manner,
8 then, in the ordinary course, Plaintiff would not have fallen as alleged herein.

9 41. Plaintiff suffered physical injuries as a result of the fall, suffered pain and has lost mobility.
10 Plaintiff continues to suffer and will suffer pain from the injuries in the incident.

11 42. Notably, on December 16, 2019, GOODRICH underwent a cervical anterior decompression
12 and fusion surgery.

13 43. Plaintiff suffered economic losses and adverse employment effects from the incident.

14 44. Defendants' officers, directors or managing agents had advance knowledge that its employees
15 were unfit for the purposes of their employment, and that their policies and procedures were
16 insufficient and hazardous to the health and safety of guests and patients, and employed the
17 employees and effected the policies and procedures with a conscious disregard of the rights or
18 safety of others.

19 45. Defendants expressly authorized or ratified the wrongful acts of its employees.

20 46. Defendants are guilty of oppression, fraud or malice, express or implied.

21 47. Plaintiff has incurred damages in excess of \$15,000.

22 **FIRST CLAIM FOR RELIEF**

23 *(Negligence Against GRG Enterprises, LLC)*

24 48. Plaintiff hereby repeats and alleges all previous paragraphs, as though fully set forth herein.

25 49. Plaintiff fell as aforesaid, by reason of the negligence of the Defendants in failing to clean and
26 properly maintain the chairs of MACKENZIE RIVER; in maintaining said chair that
27 GOODRICH used in a condition dangerous to the life and limb of persons lawfully using
28 same, in that they failed to repair their seating; in maintaining said chair in a slippery

1 condition, dangerous to the life and limb of persons using the same; in failing to use proper
2 maintenance standards, and to exercise proper care, or to remedy the slippery or wobbly
3 condition of the chairs of the aforesaid premises appropriate adhesives, tension of bolts or
4 screws, position of pegs, coatings.

5 50. Defendants failed to maintain the chairs of their facility in reasonably safe condition for use.

6 51. Defendants knew that broken equipment, employees or other customers might cause chairs to
7 loosen, slide, tip, rock or wobble and cause a danger to Plaintiff that was foreseeable.

8 52. Defendants and its attendants failed to take reasonable precautions against the foreseeable
9 dangerous condition caused by employees or other guests.

10 53. Upon information and belief, Defendants knew of prior incidents of similar dangerous
11 conditions of loose, sliding, tipping, rocking or wobbling chairs being caused on the premises
12 caused by broken equipment, employees or other customers.

13 54. Defendants knew or should have known about the condition of the loose, sliding, tipping,
14 rocking or wobbling chairs.

15 55. As a result of Defendants' negligence, Plaintiff suffered physical and emotional pain.

16 56. As such, Defendant is responsible for damages in excess of \$15,000.00.

17 57. Because of Defendants' acts or omissions, Plaintiff has been required to incur further
18 attorneys' fees and costs in bringing this action and request that the Court grant said fees and
19 costs.

20 **SECOND CLAIM FOR RELIEF**

21 *(Negligence Against CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS, LLC)*

22 58. Plaintiff hereby repeats and alleges all previous paragraphs, as though fully set forth herein.

23 59. Plaintiff fell as aforesaid, by reason of the negligence of the Defendants in failing to clear and
24 maintain the grounds of said premises of CALLVILLE BAY MARINA; in maintaining said
25 dock in a condition dangerous to the life and limb of persons lawfully using same, in that they
26 failed to clear the dock of cords, debris and hazards to pedestrians and to maintain and cleaning
27 the overhead lighting; in maintaining said dock in a condition fraught with obstacles and
28 tripping hazards; in maintain the lighting of the dock in a dim, poorly lit condition dangerous to

1 the life and limb of persons using the same; in failing to use proper cleaning and maintenance
2 standards, and to exercise proper care, or to remedy the hazardous condition of the dock to the
3 aforesaid premises by removing loose cords, applying covers to cords, not leaving cords loose
4 or dangling, by cleaning and repairing the overhead lighting or with warning signs and cones.

5 60. Defendants failed to maintain the dock of their facility in reasonably safe condition for use.

6 61. Defendants knew that broken equipment, employees or other customers might cause power
7 cords to become slack, loose, unattached or dangling and cause a danger to Plaintiff that was
8 foreseeable.

9 62. Further, Defendants knew that broken equipment, employees or other customers might cause
10 lighting to fail, become corroded, or darken areas of the docks and cause a danger to Plaintiff
11 that was foreseeable.

12 63. Defendants and its attendants failed to take reasonable precautions against the foreseeable
13 dangerous condition caused by employees or other guests.

14 64. Upon information and belief, Defendants knew of prior incidents of similar dangerous
15 conditions of power cords to become slack, loose, unattached or dangling on the docks being
16 caused on the premises caused by broken equipment, employees or other customers.

17 65. Further, upon information and belief, Defendants knew of prior incidents of similar dangerous
18 conditions of poorly lit areas being caused on the premises caused by broken equipment,
19 employees or other customers.

20 66. Defendants knew or should have known about the condition of the dock.

21 67. As a result of Defendants' negligence, Plaintiff has suffered physical and emotional pain.

22 68. As such, Defendant is responsible for damages in excess of \$15,000.00.

23 69. Because of Defendants' acts or omissions, Plaintiff has been required to incur further
24 attorneys' fees and costs in bringing this action and request that the Court grant said fees and
25 costs.

26 ...
27
28

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102

1 WHEREFORE, Plaintiff is entitled to judgment in his favor and against Defendants, jointly
2 and severally, as follows:

- 3 1. For judgment for general and special damages in an amount in excess of \$15,000.00;
- 4 2. For all costs and all attorneys' fees incurred and accrued in these proceedings;
- 5 3. For interest thereon at the legal rate until paid in full;
- 6 4. For punitive damages against CALLVILLE BAY RESORT & MARINA and FOREVER
7 RESORTS, LLC in an amount to be determined by this court; and
- 8 5. For such other and further relief as the Court may deem just and proper.

9
10 Dated March 25, 2020.

RYAN ALEXANDER, CHTD.



RYAN ALEXANDER
Nevada Bar No. 10845
3017 West Charleston Blvd., Ste. 58
Las Vegas, NV 89102
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I certify that I am an employee of RYAN ALEXANDER CHTD., and that on March 25, 2020, pursuant to NRCP 5(b), I am serving the attached copy of **AMENDED COMPLAINT** on the party(s) set forth below by ELECTRONIC SERVICE:

LEWIS BRISBOIS BISGAARD & SMITH LLP
PAUL SHPIRT, Esq.
Nevada Bar No. 10441
6385 S. Rainbow Blvd. Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant GRG ENTERPRISES, LLC

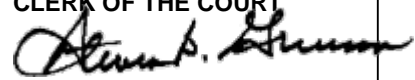
GIBSON ROBB & LINDH LLP
Chelsea D. Yuan
201 Mission Street, Suite 2700
San Francisco, CA 94105
Main: (415) 348-6000
Direct: (415) 979-2326
Fax: (415) 348-6001
cyuan@gibsonrobb.com
*Attorneys for CALLVILLE BAY RESORT & MARINA
FOREVER RESORTS LLC*

Dated March 25, 2020.

/s/Jennifer Lee

An employee of RYAN ALEXANDER, CHTD.

RYAN ALEXANDER, CHTD.
3017 WEST CHARLESTON BOULEVARD SUITE 58, LAS VEGAS, NEVADA 89102



1 JOSH COLE AICKLEN
Nevada Bar No. 007254
2 Josh.aicklen@lewisbrisbois.com
PAUL A. SHPIRT
3 Nevada Bar No. 10441
Paul.shpirt@lewisbrisbois.com
4 JENNIFER R. LANAHAN
Nevada Bar No. 14561
5 Jennifer.lanahan@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
7 702.893.3383
FAX: 702.893.3789
8 Attorneys for Defendant GRG
ENTERPRISES, LLC, d/b/a MACKENZIE
9 RIVER

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA
12

13 SHAUN GOODRICH, an Individual,
14
15 Plaintiff,

16 vs.

17 GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business
as MACKENZIE RIVER; CALLVILLE BAY
18 RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona
19 Limited Liability Company, DOES I-X,
unknown persons; and ROE Corporations
20 I-X,,

21 Defendants.
22

CASE NO. A-20-811430-C
Dept. No.: 30

DEFENDANT GRG ENTERPRISES, LLC,
D/B/A MACKENZIE RIVER'S ANSWER
TO PLAINTIFF SHAUN GOODRICH'S
AMENDED COMPLAINT

23 COMES NOW Defendant, GRG ENTERPRISES, LLC, d/b/a MACKENZIE RIVER
24 (hereinafter "Defendant"), by and through its counsel of record, the law firm LEWIS
25 BRISBOIS BISGAARD & SMITH, LLP, and hereby Answers Plaintiff SAUN GOODRICH's
26 Amended Complaint as follows:

27 **RESPONSES TO PARTIES**

28 1. Answering Paragraphs 1, 3, 4, 5, 6 and 7 of Plaintiff's Amended Complaint,

1 Defendant is without sufficient knowledge or information to form a belief as to the truth of
2 the allegations of said paragraph, and on that basis, denies each and every allegation set
3 forth therein.

4 2. Answering Paragraph 2 of the Plaintiff's Amended Complaint, Defendant
5 admits the allegations contained therein.

6 **RESPONSES TO VENUES AND JURISDICTION**

7 3. Answering Paragraphs 8, 9 and 10 of the Plaintiff's Amended Complaint,
8 Defendant is without sufficient knowledge or information to form a belief as to the truth of
9 the allegations of said paragraph, and on that basis, denies each and every allegation set
10 forth therein.

11 **RESPONSES TO GENERAL ALLEGATIONS**

12 4. Answering Paragraphs 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24,
13 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47
14 of the Plaintiff's Amended Complaint, Defendant is without sufficient knowledge or
15 information to form a belief as to the truth of the allegations of said paragraph, and on that
16 basis, denies each and every allegation set forth therein.

17 **RESPONSES TO FIRST CAUSE OF ACTION**
18 **(Negligence Against GRG Enterprise, LLC)**

19 5. Answering Paragraph 48 of Plaintiff's Amended Complaint, Defendant
20 repeats and re-alleges its responses to Paragraphs 1- 47 as if fully set forth herein.

21 6. Answering Paragraphs 49, 50, 51, 52, 53, 54, 56 and 57 of the Plaintiff's
22 Amended Complaint, Defendant is without sufficient knowledge or information to form a
23 belief as to the truth of the allegations of said paragraph, and on that basis, denies each
24 and every allegation set forth therein.

25 **RESPONSES TO SECOND CAUSE OF ACTION**
26 **(Negligence Against CALLVILLE BAY RESORT & MARINA and FOREVER RESORTS,**
27 **LLC)**

28 7. Answering Paragraph 58 of Plaintiff's Amended Complaint, Defendant
repeats and re-alleges its responses to Paragraphs 1- 57 as if fully set forth herein.

1 6. Answering Paragraphs 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69 of the
2 Plaintiff's Amended Complaint, Defendant is without sufficient knowledge or information
3 to form a belief as to the truth of the allegations of said paragraph, and on that basis,
4 denies each and every allegation set forth therein.

5 **AFFIRMATIVE DEFENSES**

6 **FIRST AFFIRMATIVE DEFENSE**

7 The Amended Complaint fails to state a claim upon which relief may be granted
8 against this answering Defendant.

9 **SECOND AFFIRMATIVE DEFENSE**

10 The damages allegedly suffered by Plaintiff, if any, were proximately caused, or
11 were contributed to, by reason of the negligence of the Plaintiff, and such negligence bars
12 and/or reduces Plaintiff's recovery against this answering Defendant, if any recovery
13 there be.

14 **THIRD AFFIRMATIVE DEFENSE**

15 The damages allegedly suffered by Plaintiff, if any, were caused by the acts or
16 omissions of other parties over whom this answering Defendant had no control.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 Plaintiff has failed to mitigate his damages, if any.

19 **FIFTH AFFIRMATIVE DEFENSE**

20 Plaintiff is estopped from asserting any rights he may have against this answering
21 Defendant.

22 **SIXTH AFFIRMATIVE DEFENSE**

23 Plaintiff has waived any rights he may have had against this answering Defendant.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 Plaintiff's claims are barred by the statute of limitations, and/or by the doctrine of
26 laches.

27 **EIGHTH AFFIRMATIVE DEFENSE**

28 All conditions on the premises were open and obvious and Plaintiff is therefore not

1 entitled to recover damages from this Defendant.

2 **NINTH AFFIRMATIVE DEFENSE**

3 Plaintiff's alleged injuries are unrelated, pre-existing and not caused by the
4 incident complained of in the Plaintiff's Complaint.

5 **TENTH AFFIRMATIVE DEFENSE**

6 All conduct by Defendant and those acting on their behalf were reasonable under
7 the circumstances, undertaken in good faith, without malice, and not tortious or unlawful.

8 **ELEVENTH AFFIRMATIVE DEFENSE**

9 Plaintiff's Complaint is barred by the doctrine of *In Pari Delicto*.

10 **TWELFTH AFFIRMATIVE DEFENSE**

11 If, in fact, any untoward, unsafe, or defective condition existed in the product
12 mentioned in the Amended Complaint, which this answering Defendant denies, said
13 condition was caused and contributed to by the negligence of the Plaintiff and/or other
14 third parties, and not by any tortious actions or failure to act by this answering Defendant.

15 **THIRTEENTH AFFIRMATIVE DEFENSE**

16 If, in fact, any untoward, unsafe, or defective condition existed in the product
17 mentioned in the Amended Complaint, which this answering Defendant deny, said
18 condition was caused and contributed to by the actions or inactions of Plaintiff and/or
19 other third parties, in that it/they changed and altered said product, thereby barring
20 Plaintiff's right to recovery against this answering Defendant.

21 **FOURTEENTH AFFIRMATIVE DEFENSE**

22 Plaintiff and/or other third-parties had knowledge of the risks and hazards set forth
23 in the Amended Complaint and the magnitude thereof, and did voluntarily assume the
24 risks thereof.

25 **FIFTHTEENTH AFFIRMATIVE DEFENSE**

26 Defendant alleges that the injury, damage, or loss, if any, sustained by the Plaintiff
27 and/or other third-parties was due to and proximately caused by the misuse, abuse, and
28 misapplication of the product described in the Amended Complaint

1 SIXTEENTH AFFIRMATIVE DEFENSE

2 Defendant alleges that the injury, damage or loss, if any, sustained by the Plaintiff
3 and/or other third parties, was due to the use of a product for a purpose for which it was
4 not intended.

5 SEVENTEENTH AFFIRMATIVE DEFENSE

6 The product identified in the Amended Complaint was altered or modified in such a
7 way that was not reasonably foreseeable by Defendant and precludes or reduces the
8 liability of Defendant, if any.

9 EIGHTEENTH AFFIRMATIVE DEFENSE

10 The product identified in the Amended Complaint conformed with the state of the
11 art at the time of the sale.

12 NINETEENTH AFFIRMATIVE DEFENSE

13 Plaintiff and/or other third-parties use of the subject product identified in the
14 Amended Complaint was contrary to instructions and/or warnings provided with the
15 subject product thereby precluding recovery against or reducing the liability of this
16 answering Defendant.

17 TWENTIETH AFFIRMATIVE DEFENSE

18 Plaintiff and/or other third-parties claims are barred by disclaimer.

19 TWENTY-FIRST AFFIRMATIVE DEFENSE

20 Plaintiff and/or other third-parties and this answering Defendant are not in privity of
21 contract.

22 TWENTY-SECOND AFFIRMATIVE DEFENSE

23 Defendant had no duty to warn of any alleged danger where such danger was
24 open and obvious to all persons of ordinary intelligence and experience, including the
25 Plaintiff and/or other third parties.

26 TWENTY-THIRD AFFIRMATIVE DEFENSE

27 Plaintiff's claims are barred in that a manufacturer or seller has no duty to warn of
28 patent or obvious dangers.

1 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

2 Plaintiff's claims are barred in that the product was not in a reasonably dangerous
3 or defective condition and was not manufactured by Defendant.

4 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

5 Plaintiff's claims are barred in that Defendant was not and is not a manufacturer
6 and/or installer of the subject product within the meaning of the implied warranty of
7 merchantability.

8 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

9 Plaintiff's claims are barred in that this answering Defendant is not the
10 manufacturer of the allegedly defective product(s).

11 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

12 Between this answering Defendant and the Plaintiff and/or other third parties, the
13 equities do not so preponderate in favor of the Plaintiff so as to allow recovery based
14 upon equitable indemnity as against this answering Defendant.

15 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

16 That the events, injuries and damages complained of in Plaintiff's Amended
17 Complaint, if any, were the result of an unavoidable accident insofar as Defendant is
18 concerned and incurred without any negligence, want of care, default, breach of warranty
19 or other breach of duty to Plaintiff on the part of Defendant.

20 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

21 This answering Defendant incorporates by reference those affirmative defenses
22 enumerated in N.R.C.P. 8 as if fully set forth herein for the specific purpose of not waiving
23 any such defenses. In the event further investigation and/or discovery reveals the
24 applicability of any such defenses, or any other affirmative defenses, Defendant reserves
25 the right to seek leave of court to amend this answer to specifically assert any such
26 defenses.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Defendant prays for judgment as follows:

1. That the Court dismiss Plaintiff's Amended Complaint in its entirety with prejudice;
2. That the Court award Defendant its costs and attorneys' fees incurred in the defense of this action; and
3. For such other and further relief as this Court deems just and proper.

DATED this 27th day of March, 2020

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By



JOSH COLE AICKLEN
Nevada Bar No. 007254
PAUL A. SHPIRT
Nevada Bar No. 10441
JENNIFER R. LANAHAN
Nevada Bar No. 14561
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Tel. 702.893.3383
Attorneys for Defendant GRG
ENTERPRISES, LLC d/b/a MACKENZIE
RIVER

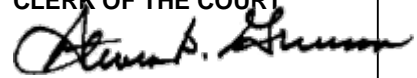
CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2020, a true and correct copy of
DEFENDANT GRG ENTERPRISES, LLC, A MONTANA LIMITED LIABILITY COMPANY
DOING BUSINESS AS MACKENZIE RIVER ANSWER TO AMENDED COMPLAINT was
served electronically with the Court using the Odyssey Electronic Service system and
addressed as follows:

Ryan Alexander
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Suite 58
Las Vegas, NV 89102
Phone: 702-868-3311
Attorneys for Plaintiffs

GIBSON ROBB & LINDH LLP
Chelsea D. Yuan Esq.
201 Mission Street, Suite 2700
San Francisco, CA 94105
Main: (415) 348-6000
Direct: (415) 979-2326
Fax: (415) 348-6001
cyuan@gibsonrobb.com
Attorneys for CALLVILLE BAY RESORT &
MARINA FOREVER RESORTS LLC

By /s/Tina M. Abrante
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



1 DSST
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 PAUL A. SHPIRT
Nevada Bar No. 10441
4 Paul.shpirt@lewisbrisbois.com
JENNIFER R. LANAHAN
5 Nevada Bar No. 14561
Jennifer.lanahan@lewisbrisbois.com
6 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
7 Las Vegas, Nevada 89118
702.893.3383
8 FAX: 702.893.3789
Attorneys for Defendant GRG
9 ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
10 MACKENZIE RIVER

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA
13

14 SHAUN GOODRICH, an Individual,
15 Plaintiff,
16

CASE NO. A-20-811430-C
Dept. No.: 30

17 vs.

18 GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business
as MACKENZIE RIVER; CALLVILLE BAY
19 RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona
20 Limited Liability Company, DOES I-X,
unknown persons; and ROE Corporations
21 I-X,,
22

Defendants.
23
24

25 **DEFENDANT GRG ENTERPRISES, LLC, a Montana Limited Liability Company dba**
MACKENZIE RIVER'S NRCP 7.1 DISCLOSURE

26 COMES NOW, Defendant GRG ENTERPRISES, LLC, a Montana Limited Liability
27 Company dba MACKENZIE RIVER, by and through its attorneys of record, Josh Cole
28 Aicklen, Esq., Paul A. Shpirt, Esq. and Jennifer R. Lanahan, Esq. of LEWIS BRISBOIS

1 BISGAARD & SMITH LLP, and hereby provides the following disclosure pursuant to
2 NRCP 7.1 in the above-entitled action.

3 Defendant states it has no parent corporation and that no publicly held corporation
4 owns 10% or more of their stock.

5 DATED this 27th day of March, 2020

6 Respectfully submitted,

7
8 LEWIS BRISBOIS BISGAARD & SMITH LLP

9
10
11 By



12 JOSH COLE AICKLEN

13 Nevada Bar No. 007254

14 PAUL A. SHPIRT

15 Nevada Bar No. 10441

16 JENNIFER R. LANAHAN

17 Nevada Bar No. 14561

18 6385 S. Rainbow Boulevard, Suite 600

19 Las Vegas, Nevada 89118

20 Tel. 702.893.3383

21 Attorneys for Defendant GRG

22 ENTERPRISES, LLC, a Montana Limited

23 Liability Company doing business as

24 MACKENZIE RIVER
25
26
27
28

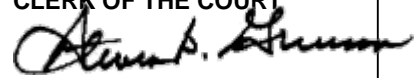
CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2020, a true and correct copy of
DEFENDANT GRG ENTERPRISES, LLC, a Montana Limited Liability Company dba
MACKENZIE RIVER'S NRCP 7.1 DISCLOSURE was served electronically with the Court
using the Odyssey Electronic Service system and addressed as follows:

Ryan Alexander
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Suite 58
Las Vegas, NV 89102
Phone: 702-868-3311
Attorneys for Plaintiffs

GIBSON ROBB & LINDH LLP
Chelsea D. Yuan Esq.
201 Mission Street, Suite 2700
San Francisco, CA 94105
Main: (415) 348-6000
Direct: (415) 979-2326
Fax: (415) 348-6001
cyuan@gibsonrobb.com
Attorneys for CALLVILLE BAY RESORT &
MARINA FOREVER RESORTS LLC

By /s/Tina M. Abrante
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



1 JOSH COLE AICKLEN
Nevada Bar No. 007254
2 Josh.aicklen@lewisbrisbois.com
PAUL A. SHPIRT
3 Nevada Bar No. 10441
Paul.shpirt@lewisbrisbois.com
4 JENNIFER R. LANAHAN
Nevada Bar No. 14561
5 Jennifer.lanahan@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
7 702.893.3383
FAX: 702.893.3789
8 Attorneys for Defendant GRG
ENTERPRISES, LLC, a Montana Limited
9 Liability Company doing business as
MACKENZIE RIVER

DISTRICT COURT

CLARK COUNTY, NEVADA

14 SHAUN GOODRICH, an Individual,
15 Plaintiff,

CASE NO. A-20-811430-C
Dept. No.: 30

vs.

INITIAL APPEARANCE FEE
DISCLOSURE

17 GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business
18 as MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
19 FOREVER RESORTS LLC, an Arizona
Limited Liability Company, DOES I-X,
20 unknown persons; and ROE Corporations
I-X,,
21

Defendants.

INITIAL APPEARANCE FEE DISCLOSURE (NRS CHAPTER 19)

24 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are
25 submitted for parties appearing in the above entitled action as indicated below:

///

///

1 Defendant GRG ENTERPRISES, LLC, a Montana Limited Liability Company doing
2 business as MACKENZIE RIVER \$223.00 answer

3 TOTAL REMITTED \$223.00

4
5 DATED this 27th day of March, 2020

6 Respectfully submitted,

7
8 LEWIS BRISBOIS BISGAARD & SMITH LLP

9
10
11 By



12 JOSH COLE AICKLEN

13 Nevada Bar No. 007254

14 PAUL A. SHPIRT

15 Nevada Bar No. 10441

16 JENNIFER R. LANAHAN

17 Nevada Bar No. 14561

18 6385 S. Rainbow Boulevard, Suite 600

19 Las Vegas, Nevada 89118

20 Tel. 702.893.3383

21 Attorneys for Defendant GRG

22 ENTERPRISES, LLC, a Montana Limited

23 Liability Company doing business as

24 MACKENZIE RIVER

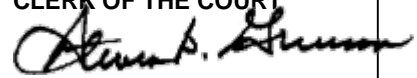
CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2020, a true and correct copy of
INITIAL APPEARANCE FEE DISCLOSURE was served electronically with the Court
using the Odyssey Electronic Service system and addressed as follows:

Ryan Alexander
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Suite 58
Las Vegas, NV 89102
Phone: 702-868-3311
Attorneys for Plaintiffs

GIBSON ROBB & LINDH LLP
Chelsea D. Yuan Esq.
201 Mission Street, Suite 2700
San Francisco, CA 94105
Main: (415) 348-6000
Direct: (415) 979-2326
Fax: (415) 348-6001
cyuan@gibsonrobb.com
Attorneys for CALLVILLE BAY RESORT &
MARINA FOREVER RESORTS LLC

By /s/Tina M. Abrante
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



DMJT
JOSH COLE AICKLEN
Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
PAUL A. SHPIRT
Nevada Bar No. 10441
Paul.shpirt@lewisbrisbois.com
JENNIFER R. LANAHAN
Nevada Bar No. 14561
Jennifer.lanahan@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
702.893.3383
FAX: 702.893.3789
Attorneys for Defendant GRG
ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
MACKENZIE RIVER

DISTRICT COURT
CLARK COUNTY, NEVADA

SHAUN GOODRICH, an Individual,
Plaintiff,

CASE NO. A-20-811430-C
Dept. No.: 30

vs.

GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business
as MACKENZIE RIVER; CALLVILLE BAY
RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona
Limited Liability Company, DOES I-X,
unknown persons; and ROE Corporations
I-X,,

Defendants.

DEMAND FOR JURY TRIAL

COME NOW, Defendant GRG ENTERPRISES, LLC, a Montana Limited Liability
Company doing business as MACKENZIE RIVER, by and through their attorneys of
record, Josh Cole Aicklen, Esq., Paul A. Shpirt, Esq., and Jennifer R. Lanahan, Esq. of
LEWIS BRISBOIS BISGAARD & SMITH LLP, and hereby demand a jury trial of all of the

1 issues in the above-entitled action.

2 DATED this 27th day of March, 2020

3 Respectfully submitted,

4
5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6
7
8 By



9 JOSH COLE AICKLEN

10 Nevada Bar No. 007254

11 PAUL A. SHPIRT

12 Nevada Bar No. 10441

13 JENNIFER R. LANAHAH

14 Nevada Bar No. 14561

15 6385 S. Rainbow Boulevard, Suite 600

16 Las Vegas, Nevada 89118

17 Tel. 702.893.3383

18 Attorneys for Defendant GRG

19 ENTERPRISES, LLC, a Montana Limited

20 Liability Company doing business as

21 MACKENZIE RIVER

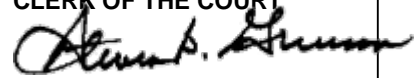
CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2020, a true and correct copy of
DEMAND FOR JURY TRIAL was served electronically with the Court using the Odyssey
Electronic Service system and addressed as follows:

Ryan Alexander
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Suite 58
Las Vegas, NV 89102
Phone: 702-868-3311
Attorneys for Plaintiffs

GIBSON ROBB & LINDH LLP
Chelsea D. Yuan Esq.
201 Mission Street, Suite 2700
San Francisco, CA 94105
Main: (415) 348-6000
Direct: (415) 979-2326
Fax: (415) 348-6001
cyuan@gibsonrobb.com
Attorneys for CALLVILLE BAY RESORT &
MARINA FOREVER RESORTS LLC

By /s/Tina M. Abrante
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



1 CSRE
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 PAUL A. SHPIRT
Nevada Bar No. 10441
4 Paul.shpirt@lewisbrisbois.com
JENNIFER R. LANAHAN
5 Nevada Bar No. 14561
Jennifer.lanahan@lewisbrisbois.com
6 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
7 Las Vegas, Nevada 89118
702.893.3383
8 FAX: 702.893.3789
Attorneys for Defendant GRG
9 ENTERPRISES, LLC, a Montana Limited
Liability Company doing business as
10 MACKENZIE RIVER

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA
13

14 SHAUN GOODRICH, an Individual,
15 Plaintiff,
16

CASE NO. A-20-811430-C
Dept. No.: 30

17 vs.

18 GRG ENTERPRISES, LLC, a Montana
Limited Liability Company doing business
as MACKENZIE RIVER; CALLVILLE BAY
19 RESORT & MARINA, a Nevada Entity;
FOREVER RESORTS LLC, an Arizona
20 Limited Liability Company, DOES I-X,
unknown persons; and ROE Corporations
21 I-X,,
22

Defendants.
23

24 CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING PROGRAM

25 The undersigned hereby consents to service of documents by electronic means
26 through the Courts e-filing program on behalf of the following party or parties:

27 Documents served by electronic means must be transmitted to the following
28 persons at the e-mail addresses listed: Josh Cole Aicklen,

1 josh.aicklen@lewisbrisbois.com, Paul A. Shpirt, paul.shpirt@lewisbrisbois.com and
2 Jennifer R. Lanahan, jennifer.lanahan@lewisbrisbois.com of LEWIS BRISBOIS
3 BISGAARD & SMITH LLP.

4 It is my understanding that the attachments may be transmitted to the program in
5 any format and will be converted to a PDF file before service is effected. The
6 undersigned also acknowledges that this Consent does not require service by electronic
7 means unless the serving party elects to do so.

8 DATED this 27th day of March, 2020

9 Respectfully submitted,

10
11 LEWIS BRISBOIS BISGAARD & SMITH LLP

12
13
14 By



15 JOSH COLE AICKLEN
16 Nevada Bar No. 007254
17 PAUL A. SHPIRT
18 Nevada Bar No. 10441
19 JENNIFER R. LANAHAN
20 Nevada Bar No. 14561
21 6385 S. Rainbow Boulevard, Suite 600
22 Las Vegas, Nevada 89118
23 Tel. 702.893.3383
24 Attorneys for Defendant GRG
25 ENTERPRISES, LLC, a Montana Limited
26 Liability Company doing business as
27 MACKENZIE RIVER
28

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 2020, a true and correct copy of
CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING PROGRAM
was served electronically with the Court using the Odyssey Electronic Service system
and addressed as follows:

Ryan Alexander
RYAN ALEXANDER, CHTD.
3017 West Charleston Blvd., Suite 58
Las Vegas, NV 89102
Phone: 702-868-3311
Attorneys for Plaintiffs

GIBSON ROBB & LINDH LLP
Chelsea D. Yuan Esq.
201 Mission Street, Suite 2700
San Francisco, CA 94105
Main: (415) 348-6000
Direct: (415) 979-2326
Fax: (415) 348-6001
cyuan@gibsonrobb.com
Attorneys for CALLVILLE BAY RESORT &
MARINA FOREVER RESORTS LLC

By /s/Tina M. Abrante
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP